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THE RECENT TRUST DECISIONS[1]

ANY comment on the recent trust decisions must begin with a recital of more or less familiar facts. The federal antitrust law, or "Sherman Act," was signed by President Harrison and became operative July 2, 1890. At that time the trust movement was still in its infancy. It is true that the Standard Oil trust, the sugar trust, the whisky trust and the tobacco trust were all in existence; but the first two were trusts of the original type, which were soon to be dissolved by the courts of Ohio (1892) and New York (1890); the third, organized as an Illinois corporation in the same year in which the Sherman Act was passed, was soon in financial difficulties and was dissolved by the Illinois courts in 1896; and the last,

[1] This article deals with the application of the antitrust law to the "trusts proper," in distinction from the railroads and labor organizations. The definition I have had in mind is that given in my Economics (p. 395): "a trust . . . [is] an industrial combination, not a legal nor natural monopoly, which seeks to throw off the restraints and avoid the wastes of competition by absorbing, controlling, or crushing its would-be competitors." "Trusts of the original type" are, of course, trusts in the narrowly legal sense, on the model of the Standard Oil trust of 1882. These scarcely enter into the discussion, since they were all dissolved, either by legal process or voluntarily, in the early nineties.

In addition to the usual sources for a discussion of federal cases, I have found the following books and articles especially helpful: Bills and Debates in Congress relating to Trusts, 1888–1902, Senate Documents, vol. 14, no. 147 (1903); Federal Anti-Trust Decisions, 1890–1906, prepared and edited for the Department of Justice by James A. Finch (two vols., 1907); the Federal Anti-Trust Law, with Amendments and List of Decisions thereunder or relating thereto, Department of Justice (July 1, 1911); History of the Sherman Law, by Albert H. Walker (1910); articles by Messrs. Grosscup, Bryan, Larkin, Coudert, Beck and Untermyer in *The North American Review*, vol. 194, pp. 1–95 (July, 1911).

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also organized in 1890, included as yet only cigarette manufacturers.[1] In addition to these four there were half a dozen or more other combinations, but all were unimportant and all might have been dissolved without serious shock to the business of the country. The period thus seemed highly favorable for successful interference by the federal government. Why then did the antitrust act long prove so ineffective?

Enforcement of the Sherman Act, 1890–1900

It is certain that Congress cannot fairly be blamed for the failure of its legislation to accomplish more speedily the results aimed at. A study of the *Congressional Record* shows that antitrust bills were introduced in the Senate by Senators Sherman, Reagan and Calhoun in the summer of 1888, and that that body gave its undivided attention to Senator Sherman's bill on January 25 and February 4, 1889. The resulting debate indicated, on the one hand, a widely shared conviction that the time had come for congressional action and, on the other, full appreciation of the difficulties that must be overcome in framing an effective federal statute. In the same period no less than fourteen antitrust bills were introduced in the House. The Sherman Bill was the first measure to be laid before the Senate of the Fifty-first Congress (December 4, 1889). It was debated at length (February 27 and March 21, 24, 25, 26 and 27, 1890), amended, and referred to the Judiciary Committee, of which Senator Edmunds was chairman. Convinced that the bill as drawn by Senator Sherman, even if found to be constitutional, would prove ineffective, the committee delegated to the able jurist, Senator Hoar of Massachusetts, the task of rewriting the entire measure.[2] In the form given it by Senator Hoar, it was reported to the Senate with the unanimous approval of the committee on April 2; and it was in this form, though not until after a long parliamentary struggle in which all the different phases of the question were fully discussed,

[1] The original American Tobacco Company, capitalized at only $25,000,000, was chartered by the state of New Jersey in January, 1890.

[2] *Cf.* George F. Hoar's Autobiography, vol. ii, pp. 364 *et seq.*

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that it finally became a law. No one can read the debates on the subject and study the amendments proposed without feeling that the measure as finally passed represented the best thought of the ablest men in the Fifty-first Congress, concentrated upon the framing of a law that would check the trusts.

Were there then difficulties inherent in the situation which necessarily made this enactment abortive? There is nothing in the language of the statute itself nor in the interpretation given to it in the decisions of the federal courts to justify such a conclusion. If any act was ever provided with "teeth" to insure its enforcement this was certainly the case with the antitrust act. It is entitled "An Act to protect trade and commerce against unlawful restraints and monopolies." Section 1 declares:

> Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several states, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract, or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

Section 2 adds:

> Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, any part of the trade or commerce among the several states or with foreign nations shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding five thousand dollars or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

The statute thus condemns and penalizes in the most comprehensive terms the conduct of which the trusts were notoriously guilty. Nor is it satisfied with declaring all infringements of its provisions misdemeanors and providing for punishment by imprisonment as well as by fine; in section 4 it imposes upon the several district attorneys of the United States, acting under the direction of the attorney-general, the duty of insti-

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tuting proceedings in equity to prevent and restrain violations of the law, and it invests the circuit courts with jurisdiction over such suits and power to issue temporary or permanent injunctions to secure the law's enforcement. Section 6 adds the provision that any property owned by parties to the combinations forbidden in section 1 and held incidentally to such combinations, in course of transportation among the states, may be seized and condemned like property imported into the United States contrary to law. Finally, section 7 empowers any person injured by conduct forbidden in the act to sue for and recover triple damages through the appropriate circuit court. Thus four distinct methods of securing the enforcement of the law are provided, and, in connection with the public and private actions alike, sufficiently severe penalties are specified to make the violation of the law no light matter. Of course, the interpretation of these and the three other sections of the act presented difficult questions to the courts. At no period, however, has the Supreme Court suggested any doubt as to the validity of the statute; and, if any fault is to be found with the early judicial rulings, it is that they gave to its provisions too broad rather than too narrow an interpretation.

If neither Congress nor the courts were at fault, responsibility for allowing the antitrust act to remain so long almost a dead letter must be laid at the door of the administrative branch of the government. That three successive presidents and five successive attorneys-general were seriously remiss in their duty to enforce this law will now scarcely be denied. The truth is that neither Harrison nor Cleveland nor McKinley was fitted by training or conviction to lead the struggle against the powerful corporate interests opposed to the enforcement of the law, and that their attorneys-general were even less fitted for such a task. It would be unfair to say that they deliberately shirked their responsibility. What happened rather was that they were easily discouraged by the disappointing outcome of the first prosecutions attempted under the new statute. A few illustrations will make this clear.

The first important case prosecuted by Mr. W. H. H. Miller, Harrison's attorney-general, was United States *v.* Greenhut

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et al.,[1] involving the officers of the whisky trust (Distilling and Cattle Feeding Company). In this case the indictment was quashed by a district-court judge, on the ground that it failed to set forth an indictable offence against the United States. In the words of the court:

> An indictment framed under this section [section 2 of the act] should contain a distinct averment in the words of the statute, or in equivalent language, that, by means of the acts charged, the defendants had monopolized, or had combined or conspired to monopolize, trade and commerce among the several states or with foreign nations. This indictment contains no such averment. . . . The indictment in this particular is clearly insufficient according to the elementary rules of criminal pleading. . . .

Such an outcome indicated forcibly the need of a more careful preparation of cases by the prosecuting officers of the government. It even suggested the desirability of a reorganization of the Department of Justice. That it led the government to abandon altogether the attempt to prosecute the whisky trust is eloquent evidence of the amount of zeal and enthusiasm that was brought to the task.

A less important case was United States *v.* Patterson *et al.*,[2] involving the cash-register combination. In this instance the important averments of the indictment were sustained; but Mr. Olney, who had inherited the case from his predecessor, allowed it to lapse for the reason—an amazing reason in view of the purpose of the antitrust act—that the complaining witnesses had entered into the combination of the defendants!

United States *v.* E. C. Knight Company[3]—the famous case in which an attempt was made to prevent the sugar trust (American Sugar Refining Company) from acquiring control of four Philadelphia refineries, which were at the time its only formidable competitors—is sometimes cited as evidence of the prosecuting zeal of the administration and the unresponsiveness of the courts; but the facts are susceptible of a different interpretation.

[1] 50 Fed. Rep. 469.

[2] 55 Fed. Rep. 605; 59 Fed. Rep. 208.

[3] 156 U. S. 1.

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In the first place, had the administration at Washington been alert to prosecute the trusts, it would have pressed its action against the sugar trust when that combination was seeking, or soon after it had secured, its New Jersey charter. The psychological moment to attack it was immediately after it was dissolved as a "trust" through the action of the state of New York,[1] depriving one of its important constituent companies of its corporate charter. It was then that, in defiance of the will of the people of New York, those who were interested in the combination maintained it in full and successful operation by substituting for the unlawful trust agreement a New Jersey charter of incorporation and by renaming the trustees "directors." If the United States had utilized the evidence brought forward in the New York litigation to attack the sugar trust at this critical moment in its career, there is good reason to believe that it might have been as successful as it was later in its suit to dissolve, under somewhat similar circumstances, the Northern Securities Company.

A second consideration is even more substantial. In the Knight case the government made the grave mistake of attacking the trust for acts which, according to the decision, did not fall within the field of interstate commerce, and of neglecting to attack it for its collective acts and because of its essential character as a monopolistic combination in restraint of commerce among the states. The main question raised in the suit was whether a New Jersey corporation, acting within the powers conferred by its charter, could acquire by purchase four sugar refineries located in Philadelphia, and the main relief asked for was a cancellation of this purchase, a return of the properties to their former owners and an injunction preventing any similar purchase in the future. This issue the court decided in the only way it well could decide it, that is, by holding that the purchase of a sugar refinery was not an act of interstate commerce and could not therefore be said to restrain such commerce, however much it might facilitate the restraint of such commerce by subsequent acts. It is true that this was not the only relief

[1] People *v.* The North River Sugar Refining Company, 121 N. Y. 582.

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asked for. The government also prayed for an injunction restraining and preventing the defendants from further violating the antitrust act and for such further and other relief as justice might require, but the chief justice's reply to this part of the bill is conclusive. He said:

> As usual, there was a prayer for general relief, but only such relief could be afforded under that prayer as would be agreeable to the case made by the bill and consistent with that specially prayed. And as to the injunction asked, that relief was auxiliary to and in aid of the primary equity, or ground of suit and, if that failed, would fail with it.

There thus appears to be good reason for blaming the prosecuting officers of the government rather than the courts for the disappointing outcome in this suit—the first suit under the antitrust act which was passed upon by the United States Supreme Court. An impatient public is too apt to overlook the fact that courts are limited in their action by the form in which cases are presented to them. Had the same intelligence and vigor been shown in the prosecution of the sugar trust that was later displayed in the prosecution of the Standard Oil Company and of the American Tobacco Company, the decision reached in these cases might have been rendered sixteen years earlier, and the trust problem might never have grown to the proportions that now make its solution so difficult.

The prosecutions in the three cases that have been considered were all commenced during Harrison's administration. It is significant of Mr. Miller's zeal for the enforcement of the law that only four other cases were taken up during his term of office, and that of these four one was the Trans-Missouri Freight Association case and another a trade-union case. The showing made by Messrs. Olney and Harmon during Cleveland's second term was even more disappointing, so far as regarded the application of the law to the trusts. Four bills in equity, two indictments and two informations for contempt represent the entire fruit of their four years of activity. Of these actions five were trade-union cases; one was the Joint Traffic Association case; two were cases of purely local interest; and only one, that against the Addyston Pipe and Steel Company, was a trust

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case proper. The lowest point, however, as regards the enforcement of the law, was reached during McKinley's administration, from March 4, 1897 to September 14, 1901. In this entire period only three prosecutions under the act were instituted by the government. One of these was brought against a local live-stock association, and the two others were directed against combinations of coal producers and dealers of no great importance.

These facts are the more significant because this very period witnessed the second great movement to organize trusts in the United States. Lulled into a false sense of security by the outcome of the Knight case and by the inactivity of the government, trust promoters entered upon their task after 1897 with a zeal and success unprecedented in the financial history of the country. According to the careful tabulation made by Mr. Moody,[1] 82 combinations with a capitalization of slightly over $1,000,000,000 were organized prior to January 1, 1898, as compared with 236 with a capitalization of over $6,000,000,000 between that date and January 1, 1904. Moreover, as every student of the period knows, this frenzy for combination was not due primarily to sudden appreciation of the benefits of organization, but rather to the activity of shrewd promoters, the hollowness of whose promises was painfully revealed to the investing public when the inevitable reaction set in a few years later. According to a calculation of the *Wall Street Journal*,[2] the securities of the one hundred principal industrial combinations showed, in October, 1903, a shrinkage from the top prices attained in the years 1899 and 1900 of $1,750,000,000 in aggregate price, or 43 per cent of their total capitalization. If we are justified in assuming that the federal courts would have given to the antitrust act effective operation against the trusts from the outset, if cases had been brought before them in which the issue was squarely presented, this second trust movement, which was primarily financial rather than industrial, and which involved such enormous losses to investors, might have been entirely prevented.

[1] The Truth about the Trusts.

[2] Issue of October 24, 1903.

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It is no part of the purpose of this article to review in detail the steps by which the antitrust act was galvanized into life after Roosevelt succeeded to the presidency. The new attitude and spirit on the part of the administration is indicated by a mere enumeration of the prosecutions undertaken. During Roosevelt's seven and a half years the government filed eighteen bills in equity, procured twenty-five indictments and instituted one forfeiture proceeding. Moreover, in this period the Bureau of Corporations was established (February 14, 1903) on the initiative of the president; on his recommendation large sums of money were appropriated by Congress to enable this bureau and the Department of Justice to investigate the trusts and to institute proceedings against those that were believed to be unlawful; and acts were passed giving precedence to suits under the antitrust law in the federal courts and limiting immunity from criminal prosecution to natural persons testifying under oath in obedience to a subpœna. The same determination to prosecute the trusts has been displayed since Taft became president. Up to July 1, 1911, his attorney-general had filed ten bills in equity and had procured eighteen indictments. Thus during the last ten years not only has the act been enforced with vigor and persistence, but the machinery necessary to enable the government to assert its authority over the trusts has been created. It is significant that during this period the administration has had little cause to complain of lack of coöperation on the part of the courts.

Important decisions prior to 1911

To appreciate the contribution which the recent decisions have made to the interpretation of the antitrust law, one must clearly understand the position of the law before these decisions were rendered. The negative outcome of the first trust case to be passed upon by the federal Supreme Court, the Knight case, has already been noticed. The second case to reach that tribunal, *In re* Debs,[1] established the important principle that the act applied to combinations of wage-earners in restraint of

[1] 158 U. S. 564.

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trade as well as to combinations of business men, but it had little relation to the trusts proper. The same cannot be said of the third and fourth decisions, in the Trans-Missouri Freight Association [1] and the Joint Traffic Association [2] cases, although these concerned the railroads rather than the trusts. An interesting aspect of these cases was that in connection with them there was no dispute in regard to the facts. The whole question concerned the interpretation of the antitrust act as applied to an agreement in regard to railroad rates. The views that the act did not apply to such an agreement or that, if it did, the act itself was unconstitutional were presented to the court with eloquence and ability. The decisions upholding the law, declaring that under its terms rate agreements among the railroads were "contracts in restraint of trade," and refusing to go into the question whether or not such agreements were reasonable, in the sense of not opposed to public policy, gave the statute a significance and importance which it had not before enjoyed. In refusing to discuss the reasonableness or unreasonableness of contracts determined to be in restraint of trade, Justice Peckham, who wrote the opinion for the majority of the court, used expressions which have proved fruitful of misunderstanding ever since.[3]

The first trust case, after the Knight case, to be passed upon by the Supreme Court was United States *v.* Addyston Pipe and Steel Company.[4] This company was a member of a combination of pipe manufacturers which, while maintaining the semblance of competition among its members, really fixed by secret agreements the prices to be charged for pipe over a considerable portion of the United States. The decision condemning this combination as a violation of the antitrust act, rendered by a unanimous court,[5] showed clearly that, where the facts indicated agreements or contracts tending directly to restrain interstate commerce, the act would be held to apply, even though the primary business of the parties to the

[1] 166 U. S. 290.
[2] 171 U. S. 505.
[3] *Cf. infra*, pp. 604–611.
[4] 175 U. S. 211.
[5] In the six previous cases passed upon, the Supreme Court had been divided.

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agreements was manufacturing or some other activity subject to state rather than to federal regulation. Trust organizers should have taken warning from this decision; and it is perhaps not a mere coincidence that the second trust movement lost much of its momentum about the time that it was rendered (December 4, 1899).

The almost complete abandonment of effort to enforce the law under McKinley's administration caused a considerable interval to elapse before the next case arising under the act was decided by the Supreme Court. This was United States *v.* Northern Securities Company *et al.*,[1] which was decided March 14, 1904. In one respect the decision in this important case marks a turning point in the history of the law. It was the first case in which a holding corporation was attacked as a combination in restraint of trade. The decision, even by a five to four vote, that a state charter affords no protection against condemnation under the statute, broke down the last defence on which those interested in monopolistic trusts had relied. From that time it has been pretty clear that arguments in defence of the trusts should be addressed to Congress, in an effort to secure the amendment of the law, rather than to the courts, whose duty it is to see that the acts of Congress are enforced.

The Standard Oil decision

The case of United States *v.* Standard Oil Company *et al.*[2] was prepared by the government with the greatest care. As a first step, the entire history of this unique combination was investigated by the Bureau of Corporations, and the results of its inquiry were published in three stout volumes.[3] On the basis of this information a bill in equity, asking for the dissolution of the combination, was filed by Attorney-General Moody in the United States circuit court for the eastern district of Missouri, November 15, 1906. The case was contested at every point,

[1] 193 U. S. 197. This was the first prosecution commenced in Roosevelt's administration.

[2] 173 Fed. Rep. 177; 221 U. S. 1.

[3] Reports of the Commissioner of Corporations on the Transportation of Petroleum and on the Petroleum Industry (1906–1907).

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and it was not until April, 1909, that the real argument on its merits and demerits took place. A unanimous decision in favor of the government was rendered by the circuit court on November 20, 1909, from which an appeal was taken to the Supreme Court. The appeal was argued before the Supreme Court in March, 1910, but on March 28, before a decision had been agreed to, Justice Brewer died. As Justice Moody had been prevented by illness and by his earlier participation in the litigation as attorney-general from taking part in the hearing of the case, the chief justice announced in April that a rehearing of this case and of the American Tobacco Company case would be held. The death of the chief justice himself on July 4 postponed the reargument of these cases for nearly a year, and consequently the decision of the Supreme Court in the Standard Oil suit was not handed down until May 15, 1911.

Partly on account of these delays, but chiefly because of the exhaustive briefs submitted by both sides, the record in the case grew to staggering proportions. In addition to the oral arguments, twenty-three volumes of printed matter, aggregating about 12,000 pages, were submitted for the consideration of the judges. Under the circumstances it is matter for congratulation that the decision, as recorded in the *Federal Reporter*, was compressed into twenty-eight pages, to which Justice Harlan added a separate opinion, concurring with the decision but disagreeing with some of the reasoning of his colleagues, covering thirteen pages. This not only simplifies the task of summarizing the decision but invites liberal quotations of the unusually succinct language in which it is expressed.

In setting forth the judgment of the court, in which seven of his colleagues concurred, Chief Justice White first reviewed the history of the Standard Oil combination. He then turned to the interpretation of sections one and two of the antitrust act, both of which, according to the decision of the lower court, that combination had violated. Since the principal facts in regard to the rise and progress of the Standard Oil trust are now common property, however differently they may be judged, we may consider at once the views expressed with reference to the interpretation of the law. Finding "that the sole subject with

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which the first section deals is restraint of trade, as therein contemplated, and that the attempt to monopolize and monopolization is the subject with which the second section is concerned," [1] the chief justice proceeded to inquire what meaning attached to these terms when the act was passed. Through an interesting survey of the development of English and American law he arrived at the conclusion that the terms "restraint of trade" and "monopolize" as used in the statute are to be understood as mutually supplementing and explaining each other. "Restraint of trade," he said, was intended to convey the meaning that had come to be attached to it in law. It is applied in the act to all kinds of contracts and combinations, whatever their form. From this and other considerations

it inevitably follows that the provision necessarily called for the exercise of judgment, which required that some standard should be resorted to for the purpose of determining whether the prohibitions contained in the statute had or had not in any given case been violated. Thus not specifying but indubitably contemplating and requiring a standard, it follows that it was intended that the standard of reason, which had been applied at the common law and in this country in dealing with subjects of the character embraced by the statute, was intended to be the measure used for the purpose of determining whether in a given case a particular act had or had not brought about the wrong against which the statute provided.[2]

As to the significance of the second section he said:

Undoubtedly, the words "to monopolize" and "monopolize" as used in the section reach every act bringing about the prohibited results. The ambiguity, if any, is involved in determining what is intended by monopolize. But this ambiguity is readily dispelled in the light of the previous history of the law of restraint of trade to which we have referred and the indication which it gives of the practical evolution by which monopoly and the acts which produce the same result as monopoly, that is, an undue restraint of the course of trade, all came to be spoken of as, and to be indeed synonymous with, restraint of trade. In other words, having by the first section forbidden all means of monopolizing trade, that is, unduly restraining it by means of every

[1] For the language of these sections *cf. supra*, p. 583. [2] 221 U. S. 60.

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contract, combination, etc., the second section seeks, if possible, to make the prohibitions of the act all the more complete and perfect by embracing all attempts to reach the end prohibited by the first section, that is, restraints of trade, by any attempt to monopolize, or monopolization thereof, even although the acts by which such results are attempted to be brought about or are brought about be not embraced within the general enumeration of the first section. And, of course, when the second section is thus harmonized with and made, as it was intended to be, the complement of the first, it becomes obvious that the criteria to be resorted to in any given case for the purpose of ascertaining whether violations of the section have been committed is the rule of reason guided by the established law and by the plain duty to enforce the prohibitions of the act and thus the public policy which its restrictions were obviously enacted to subserve.[1]

Having explained the interpretation to be given to the declaratory sections of the act, he next proceeded to defend this interpretation from criticisms that had been urged against it. As the argument at this point is not vitally related to the decision, it is not necessary to consider it at present.[2]

That the circuit court was correct in holding that the Standard Oil combination had been guilty of violating the first and second sections of the act as above interpreted was affirmed on the following grounds:

(*a*) Because the unification of power and control over petroleum and its products, which was the inevitable result of the combining in the New Jersey corporation by the increase of its stock and the transfer to it of the stocks of so many other corporations, aggregating so vast a capital, gives rise, in and of itself, in the absence of countervailing circumstances, to say the least, to the *prima facie* presumption of intent and purpose to maintain the dominancy over the oil industry, not as a result of normal methods of industrial development, but by new means of combination which were resorted to in order that greater power might be added than would otherwise have arisen had normal methods been followed, the whole with the purpose of excluding others from the trade and thus centralizing in the combination a perpetual control of the movements of petroleum and its products in the channels of interstate commerce.

[1] 221 U. S. 61, 62.

[2] *Cf. infra*, pp. 604–611.

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(*b*) Because the *prima facie* presumption of intent to restrain trade, to monopolize and to bring about monopolization, resulting from the act of expanding the stock of the New Jersey corporation and vesting it with such vast control of the oil industry, is made conclusive by considering (1) the conduct of the persons or corporations who were mainly instrumental in bringing about the extension of power in the New Jersey corporation before the consummation of that result and prior to the formation of the trust agreements of 1879 and 1882; (2) by considering the proof as to what was done under those agreements and the acts which immediately preceded the vesting of power in the New Jersey corporation, as well as by weighing the modes in which the power vested in that corporation has been exerted and the results which have arisen from it.

Recurring to the acts done by the individuals or corporations who were mainly instrumental in bringing about the expansion of the New Jersey corporation during the period prior to the formation of the trust agreements of 1879 and 1882, including those agreements, not for the purpose of weighing the substantial merit of the numerous charges of wrongdoing made during such period, but solely as an aid for discovering intent and purpose, we think no disinterested mind can survey the period in question without being irresistibly driven to the conclusion that the very genius for commercial development and organization which it would seem was manifested from the beginning soon begot an intent and purpose to exclude others, which was frequently manifested by acts and dealings wholly inconsistent with the theory that they were made with the single conception of advancing the development of business power by usual methods, but which on the contrary necessarily involved the intent to drive others from the field and to exclude them from their right to trade and thus accomplish the mastery which was the end in view. And, considering the period from the date of the trust agreements of 1879 and 1882 up to the time of the expansion of the New Jersey corporation, the gradual extension of the power over the commerce in oil which ensued, the decision of the Supreme Court of Ohio, the tardiness or reluctance in conforming to the commands of that decision, the method first adopted and that which finally culminated in the plan of the New Jersey corporation, all additionally serve to make manifest the continued existence of the intent which we have previously indicated and which among other things impelled the expansion of the New Jersey corporation. The exercise of the power which resulted from that organization fortifies the foregoing conclusions, since the development which came, the acquisition here and there

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which ensued of every efficient means by which competition could have been asserted, the slow but resistless methods which followed by which means of transportation were absorbed and brought under control, the system of marketing which was adopted by which the country was divided into districts and the trade in each district in oil was turned over to a designated corporation within the combination and all others were excluded, all lead the mind up to a conviction of a purpose and intent which we think is so certain as practically to cause the subject not to be within the domain of reasonable contention.[1]

Having determined that the defendants were guilty of the violation charged, the last task of the court was to pass on the remedies that should be prescribed. That a simple injunction directing the defendants to refrain from further violations of the law would be inadequate as a remedy was obvious from the consideration that in this instance "the condition which [had] been brought about in violation of the statute, in and of itself [was] not only a continued attempt to monopolize, but also a monopolization." For this reason the Supreme Court approved the principal decree of the lower tribunal commanding the dissolution of the combination. It declared, however, that this decree was not to be construed as prohibiting the subsidiary companies into which the New Jersey holding company was to be dissolved from entering into lawful contracts with one another, but merely from again making contracts or combinations in restraint of commerce or aiming at or resulting in monopoly. Further, the court decided that the time allowed for compliance with the orders of the court, thirty days, was too short, and that at least six months should be given; and that, "in view of the possible serious injury to result to the public from an absolute cessation of interstate commerce in petroleum and its products by such vast agencies as are embraced in the combination," the decree enjoining the carrying on of interstate commerce, not only by the New Jersey corporation but by all the subsidiary companies, until the dissolution of the combination by the transfer of the stocks in accordance with the decree, should not have been awarded.[2]

[1] 221 U. S. 75–77.

[2] 221 U. S. 81.

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In compliance with these directions the circuit court modified its order, and in obedience to it the Standard Oil Company of New Jersey has announced that it will distribute to its shareholders *pro rata* shares in all the corporations which it controlled as a holding company on or before December 1, 1911.

Whether, as a consequence of this decision, the harmonious operation of the business of these corporations, which has been maintained at least since the original trust was organized in 1882, will be discontinued, remains to be seen. In any event, it may be confidently predicted that after the distribution the parties interested in these multifarious enterprises will be so widely scattered and that the scrutiny to which the actions of these parties will be subjected by the agents of the government will be so strict that the oppressive monopolistic policies that have been the chief grievance against the Standard Oil combination in the past can no longer be practised. For these reasons the restoration of fair and reasonable trade conditions with reference to petroleum and its products which the decree aims to bring about is likely to prove permanent. This is the more certain because the means which made possible the building-up of the Standard Oil monopoly, enumerated in the government's bill and summarized by the chief justice as

> Rebates, preferences, and other discriminatory practices in favor of the combination by railroad companies; restraint and monopolization by control of pipe lines and unfair practices against competing pipe lines; contracts with competitors in restraint of trade; unfair methods of competition, such as local price cutting at the points where necessary to suppress competition; espionage of the business of competitors, the operation of bogus independent companies, and payment of rebates on oil, with the like intent; the division of the United States into districts and the limiting of the operations of the various subsidiary corporations as to such districts so that competition in the sale of petroleum products between such corporations had been entirely eliminated and destroyed,[1]

cannot be employed under the conditions of publicity of business operations which must now be observed.

In addition to asserting the sovereign authority of the gov-

[1] 221 U. S. 42, 43.

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ernment of the United States over the Standard Oil combination, which had long been regarded, rightly or wrongly, as a law unto itself, and thus tending to reëstablish the proper relation between the interests of the whole people and the interests of a single group—a result that is perhaps sentimental but none the less important—the decision paves the way for a more rational treatment of the trust problem, and this for three reasons.

(1) The clear declaration that the statute is not a wanton attack on all combinations irrespective of their beneficent or evil tendencies, even though unaccompanied by clear specifications as to what combinations and contracts involve restraint of commerce in the legal sense and what do not, is an important forward step. Every later decision must help to clear up the uncertainties that still inhere in the expression, "restraint of trade," and make it easier for the law-abiding citizen to avoid acts that are offensive to the statute.

(2) The reiteration, by a unanimous court, of the view that a state charter is no protection to a combination bent on restraining commerce or building up a monopoly will strengthen the hands of all public authorities, both national and state, who demand that the conduct of corporations shall conform to the same standards of right and wrong, lawful and unlawful, that are applied to natural persons.

(3) Finally, the unwillingness of the court seriously to consider the question whether the primary business of the Standard Oil Company was interstate or state in its nature, and its assumption that, as a matter of course, a corporation distributing and selling its products all over the country must be engaged in interstate commerce and subject to congressional control, should hasten the enactment of a federal incorporation act for manufacturing and other companies extending their operations beyond the limits of a single state and thus prepare the way for an adequate system of regulation to supplement the prohibitions of a perhaps less sweeping antitrust law.

The American Tobacco Company decision

Coming only two weeks after the Standard Oil decision, the decision in the United States *v.* The American Tobacco Com-

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pany *et al.*[1] is important chiefly because of the greater complexity of the combination and because it "in the most unequivocal terms, reëxpress[es] and reaffirm[s]"[2] the interpretation given in the earlier decision to the disputed provisions of the anti-trust act. The bill in equity asking for the dissolution of the tobacco trust was filed by Attorney-General Bonaparte in the circuit court for the southern district of New York on July 10, 1907. A decision favorable to the government, except as to the individual defendants and certain foreign and other corporations, was rendered by the circuit court on November 7, 1908, one of the four judges dissenting. From this decision cross appeals were taken to the Supreme Court. Arguments on these appeals were presented in January, 1910, but the untoward circumstances already described[3] caused the case to be restored to the calendar and delayed the decision of the court until May 29, 1911. The record in this case was not so voluminous as in the Standard Oil case, but the decision of the Supreme Court, again presented by Chief Justice White, is nearly as elaborate. Justice Harlan once more submitted an independent opinion, concurring with the decision but dissenting in part from the reasoning of his colleagues.

Since the chief interest of this case arises from the complexity of the combination attacked, the greater part of the decision is devoted to reciting the facts established by the evidence. The defendants were 29 individuals, 69 American corporations, most of them with New Jersey charters, and two English corporations. Starting from the original American Tobacco Company, incorporated in January, 1890, the combination had grown, through combinations, consolidations and acquisitions of shares of stocks, plants, trade-marks and other properties, to the bewildering proportions indicated by the number of individuals and separate corporations embraced in it when the suit was begun in July, 1907. After rehearsing the principal averments of the government with reference to this development, the relief prayed for in its bill and the

[1] 164 Fed. Rep. 700; 221 U. S. 106. [2] 221 U. S. 180.

[3] *Cf. supra*, p. 592.

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grounds of its appeal and of the appeal of the defendants from the decision of the lower court, the chief justice simplified the problem by declaring that the judgment of the court would be based on a consideration simply of the "undisputed facts" with reference to the combination. These facts he summarized with convincing force. To prove that these undisputed facts furnished ample basis for the decision, he turned next to the interpretation and application of the antitrust act and concluded:

Coming then to apply to the case before us the act as interpreted in the Standard Oil and previous cases, all the difficulties suggested by the mere form in which the assailed transactions are clothed become of no moment. This follows because, although it was held in the Standard Oil case that, giving to the statute a reasonable construction, the words "restraint of trade" did not embrace all those normal and usual contracts essential to individual freedom and the right to make which was necessary in order that the course of trade might be free, yet, as a result of the reasonable construction which was affixed to the statute, it was pointed out that the generic designation of the first and second sections of the law, when taken together, embraced every conceivable act which could possibly come within the spirit or purpose of the prohibitions of the law, without regard to the garb in which such acts were clothed. That is to say, it was held that in view of the general language of the statute and the public policy which it manifested, there was no possibility of frustrating that policy by resorting to any disguise or subterfuge of form, since resort to reason rendered it impossible to escape by any indirection the prohibitions of the statute.[1]

That the acknowledged facts in reference to the tobacco trust brought the acts, contracts, agreements *etc.* of that combination within the prohibitions of the statute seemed to the court too clear for argument. It said:

Indeed, the history of the combination is so replete with the doing of acts which it was the obvious purpose of the statute to forbid, so demonstrative of the existence from the beginning of a purpose to acquire dominion and control of the tobacco trade, not by the mere exertion of the ordinary right to contract and to trade, but by methods devised in order to monopolize the trade by driving competitors out of business,

[1] 221 U. S. 180, 181.

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which were ruthlessly carried out upon the assumption that to work upon the fears or play upon the cupidity of competitors would make success possible. We say these conclusions are inevitable, not because of the vast amount of property aggregated by the combination, not because alone of the many corporations which the proof shows were united by resort to one device or another. Again, not alone because of the dominion and control over the tobacco trade which actually exists, but because we think the conclusion of wrongful purpose and illegal combination is overwhelmingly established by the following considerations: (*a*) By the fact that the very first organization or combination was impelled by a previously existing fierce trade war, evidently inspired by one or more of the minds which brought about and became parties to that combination. (*b*) Because, immediately after that combination and the increase of capital which followed, the acts which ensued justify the inference that the intention existed to use the power of the combination as a vantage ground to further monopolize the trade in tobacco by means of trade conflicts designed to injure others, either by driving competitors out of the business or compelling them to become parties to a combination—a purpose whose execution was illustrated by the plug war which ensued and its results, by the snuff war which followed and its results, and by the conflict which immediately followed the entry of the combination in England and the division of the world's business by the two foreign contracts which ensued. (*c*) By the ever-present manifestation which is exhibited of a conscious wrongdoing by the form in which the various transactions were embodied from the beginning, ever changing but ever in substance the same. Now the organization of a new company, now the control exerted by the taking of stock in one or another or in several, so as to obscure the result actually attained, nevertheless uniform in their manifestations of the purpose to restrain others and to monopolize and retain power in the hands of the few who, it would seem, from the beginning contemplated the mastery of the trade which practically followed. (*d*) By the gradual absorption of control over all the elements essential to the successful manufacture of tobacco products, and placing such control in the hands of seemingly independent corporations serving as perpetual barriers to the entry of others into the tobacco trade. (*e*) By persistent expenditure of millions upon millions of dollars in buying out plants, not for the purpose of utilizing them, but in order to close them up and render them useless for the purposes of trade. (*f*) By the constantly recurring stipulations, whose legality, isolatedly viewed, we are not considering, by which numbers of persons, whether manufacturers, stockholders

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or employés, were required to bind themselves, generally for long periods, not to compete in the future. Indeed, when the results of the undisputed proof which we have stated are fully apprehended, and the wrongful acts which they exhibit are considered, there comes inevitably to the mind the conviction that it was the danger which it was deemed would arise to individual liberty and the public well-being from acts like those which this record exhibits, which led the legislative mind to conceive and to enact the Anti-trust Act, considerations which also serve so clearly to demonstrate that the combination here assailed is within the law as to leave no doubt that it is our plain duty to apply its prohibitions.[1]

This sweeping condemnation of the combination in all its aspects was followed by a criticism of the lower tribunal for some of its findings, particularly for exempting the individual defendants, the two English corporations and the United Cigar Stores Company from its decrees. Because of this unwarranted leniency on the part of the lower court, the Supreme Court found itself constrained to "approach the subject of relief from an original point of view." Three dominant considerations were accepted as guides to its action:

(1) The duty of giving complete and efficacious effect to the prohibitions of the statute; (2) the accomplishing of this result with as little injury as possible to the interest of the general public; and (3) a proper regard for the vast interest of private property which may have become vested in many persons as a result of the acquisition either by way of stock ownership or otherwise of interests in the stock or securities of the combination, without any guilty knowledge or intent in any way to become actors or participants in the wrongs which we find to have inspired and dominated the combination from the beginning.[2]

Because of these considerations the court was unwilling either to grant an injunction prohibiting all the defendants from participating in interstate commerce until the unlawful situation should be corrected or to appoint a receiver to administer all the properties affected until lawful conditions should be restored, as the government had requested. Instead, it decreed as follows:

[1] 221 U. S. 181–183. [2] *Ibid.* p. 185.

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(1) That the combination in and of itself, as well as each and all of the elements composing it, whether corporate or individual, whether considered collectively or separately, be decreed to be in restraint of trade and an attempt to monopolize and a monopolization within the first and second sections of the Anti-trust Act. (2) That the court below, in order to give effective force to our decree in this regard, be directed to hear the parties, by evidence or otherwise, as it may be deemed proper, for the purpose of ascertaining and determining upon some plan or method of dissolving the combination and of re-creating, out of the elements now composing it, a new condition which shall be honestly in harmony with and not repugnant to the law. (3) That for the accomplishment of these purposes, taking into view the difficulty of the situation, a period of six months is allowed from the receipt of our mandate, with leave, however, in the event, in the judgment of the court below, the necessities of the situation require, to extend such period to a further time not to exceed sixty days. (4) That in the event, before the expiration of the period thus fixed, a condition of disintegration in harmony with the law is not brought about, either as the consequence of the action of the court in determining an issue on the subject or in accepting a plan agreed upon, it shall be the duty of the court, either by way of an injunction restraining the movement of the products of the combination in the channels of interstate or foreign commerce or by the appointment of a receiver, to give effect to the requirements of the statute.

Pending the bringing about of the result just stated, each and all of the defendants, individuals as well as corporations, should be restrained from doing any act which might further extend or enlarge the power of the combination, by any means or device whatsoever. In view of the considerations we have stated, we leave the matter to the court below to work out a compliance with the law without unnecessary injury to the public or the rights of private property.[1]

The Supreme Court accordingly reversed the decree of the lower court, though approving it in many respects, and remanded the case for final disposal by that tribunal in conformity with the above directions.

For the Standard Oil Company, compliance with the decision of the court was a comparatively simple matter. In the case of the tobacco trust, with its complex organization of holding

[1] 221 U. S. 187, 188.

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company within holding company, its federation of numerous corporations, each in itself a monopolistic combination, and its rubbish heap of closed and dismantled plants, compliance with the decree is a matter of such difficulty that this combination may yet be forced into the hands of a receiver. Distaste for this contingency is serving, however, to make the responsible officers of the numerous corporations involved eager co-workers with the judges of the circuit court in trying to devise a solution that will be acceptable. The outcome of this endeavor is being watched with interest by the officials of other trusts, many of whom will no doubt be glad to escape the observation of the prosecuting officers of the government by dissolving their combinations into smaller aggregates before suits can be begun against them. The sweeping arraignment of the tobacco trust in this last decision, which is in strong contrast with the milder summing-up of the case against the Standard Oil Company in the earlier decision, has brought home forcibly to the business community the realization that monopolistic manufacturing and mining corporations are by their very existence guilty of violating the antitrust law and may therefore expect no leniency from the courts. The necessity of reorganizing many important industrial corporations, "turning back the wheels of progress," as defenders of the trusts phrase it, which this situation implies, is the cloud which now darkens the financial horizon. This cloud can only be dissipated by a widespread reorganization of the trusts or by the amendment of the antitrust act. The decision in the tobacco case has added no new principle to the law, but it has emphasized the determination of the Supreme Court to assist the government to make the will of Congress, within the limits prescribed by the Constitution, supreme.

The rule of reason

The proposition in the recent decisions that has excited most discussion is that the law is to be interpreted in accordance with the "rule of reason." It was on this point that Justice Harlan vigorously dissented from his colleagues, going so far as to accuse them of reading into the antitrust act the word "unrea-

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sonable," which Congress neither put there nor intended to put there, and of thus usurping a legislative function.

Even if this view of Justice Harlan were warranted by the facts, it would hardly justify the statement with which he accompanies it, that this "is a blow at our governmental system, and in the end will prove most dangerous to all." It is perhaps true, as he says, "that there is abroad in our land a most harmful tendency to bring about the amending of constitutions and legislative enactments by means alone of judicial construction." Judicial decisions that legislative acts previously held to be within the Constitution are unconstitutional, as in the income-tax cases, or that measures approved by intelligent public opinion, like the New York ten-hour bake-shop law or the New York workmen's compensation act, are in conflict with vague and general phrases in the Constitution that are differently interpreted in different jurisdictions, seem evidences of such a tendency. They are harmful, because they arouse hostility to the courts and incite movements which menace the legitimate and necessary independence of the judiciary. They arouse hostility, because of the difficulty of securing the constitutional amendments which are necessary to override the decisions. When based upon our seemingly almost unamendable federal Constitution, such decisions, although directly contrary to intelligent and matured public opinion, remain the supreme law until the courts modify their construction of the Constitution. Again, the exercise by the courts of powers created and developed almost entirely by judicial decisions, like the power to issue injunctions in connection with labor disputes, seems to many laymen an evidence of a disposition on the part of the courts to extend their authority unduly. But no such assertion can fairly be made as regards the position taken by the Supreme Court in the recent trust cases. It involves merely a difference of opinion as to the interpretation of a clause in a statute which Congress may modify at will. If the "unreasonable" construction, on which Justice Harlan insisted, is the one Congress really intended, it may follow the policy which Mr. Bryan[1] and some

[1] "The Reason." *North American Review*, vol. 194, p. 10 (July, 1911).

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others appear to advocate and introduce the words "whether such restraint is reasonable or unreasonable" into the first section of the statute. The Supreme Court would be bound to accept such a decision and to enforce the amended law. Under these circumstances an error of interpretation, if an error has been committed, can hardly be regarded as a "blow at the integrity of our governmental system" or as "dangerous," either now or hereafter.

Justice Harlan's dissent from his colleagues involved two related but independent contentions: (1) that the construction put on the statute differed from that authoritatively put upon it in earlier decisions; (2) that this new construction was so forced and unnatural as to amount to an amendment of the law. He was able to make out a much better case for the first view than for the second. In the Trans-Missouri Freight Association and Joint Traffic Association cases,[1] decided in 1897 and 1898, Justice Peckham, writing the majority opinion, certainly used expressions which it is difficult to reconcile with the view now taken by the same court. It was said in the first of these cases:

> The arguments which have been addressed to us against the inclusion of all contracts in restraint of trade, as provided for by the language of the act, have been based upon the alleged presumption that Congress, notwithstanding the language of the act, could not have intended to embrace all contracts, but only such contracts as were in unreasonable restraint of trade. Under these circumstances we are, therefore, asked to hold that the act of Congress excepts contracts which are not in unreasonable restraint of trade and which only keep rates up to a reasonable price, notwithstanding the language of the act makes no such exception. In other words, we are asked to read into the act by way of judicial legislation an exception that is not placed there by the law-making branch of the Government, and this is to be done upon the theory that the impolicy of such legislation is so clear that it can not be supposed Congress intended the natural import of the language it used. This we can not and ought not to do. . . . If the act ought to read as contended for by defendants, Congress is the body to amend

[1] 166 U. S. 290; 171 U. S. 505.

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it, and not this court, by a process of judicial legislation wholly unjustifiable.[1]

Chief Justice White frankly recognized this difficulty and, in the first of the recent decisions, he met it with the following declaration of the position of the court:

> And in order not in the slightest degree to be wanting in frankness, we say that in so far, however, as by separating the general language used in the opinions in the Freight Association and Joint Traffic cases from the context and the subject and parties with which the cases were concerned, it may be conceived that the language referred to conflicts with the construction which we give the statute, they are necessarily now limited and qualified.[2]

Thus the court practically says that, if it be true that expressions were used in the earlier cases inconsistent with the construction now put on the act—these expressions being in no wise vital to the decisions, the correctness of which is emphatically reaffirmed—such expressions are now qualified and must no longer be deemed to express the true meaning of the statute. In the decision in the tobacco case Chief Justice White further fortified his position by citing[3] the following sentence from the Joint Traffic case: "The act of Congress must have a reasonable construction, or else there would scarcely be an agreement or contract among business men that could not be said to have, indirectly or remotely, some bearing on interstate commerce, and possibly to restrain it." Had he not been deterred by a sense of loyalty to the traditions of the court, he might have urged other reasons for not insisting unduly on the binding force of all the reasoning in the traffic decisions. He might have referred to the fact that both of these cases were decided by a bare majority of the judges and that in both he personally had sided with the minority in maintaining that a reasonable interpretation must be given to the "restraint of trade" phrase of the statute. He might have reminded us that in 1903, when the Northern Securities case[4]

[1] 166 U. S. 340.
[2] 221 U. S. 67, 68.
[3] *Ibid.* p. 179.
[4] 193 U. S. 197.

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was decided, Justice Brewer, whose vote with the majority had been necessary to the decision of the earlier cases, took the trouble to write a separate opinion, apparently for the sole purpose of declaring his conversion to the view that the "rule of reason" should apply. In that opinion he said:

> While a further examination (which has been induced by the able and exhaustive arguments of counsel in the present case) has not disturbed the conviction that those cases [the traffic cases] were rightly decided, I think that in some respects the reasons given for the judgments cannot be sustained. Instead of holding that the Anti-trust Act included all contracts, reasonable or unreasonable, in restraint of interstate trade, the ruling should have been that the contracts there presented were unreasonable restraints of interstate trade, and as such within the scope of the act. That act, as appears from its title, was leveled at only "unlawful restraints and monopolies." Congress did not intend to reach and destroy these minor contracts in partial restraint of trade which the long course of decisions at common law had affirmed were reasonable and ought to be upheld. The purpose rather was to place a statutory prohibition with prescribed penalties and remedies upon those contracts which were in direct restraint of trade, unreasonable and against public policy. Whenever a departure from common law rules and definitions is claimed, the purpose to make the departure should be clearly shown. Such a purpose does not appear and such a departure was not intended.[1]

Since only three justices concurred in the opinion submitted by Justice Harlan in this case, it is clear that the interpretation of the statute expressed in the recent decisions voices the prevailing opinion which has been held by the judges of the Supreme Court at least since 1903.

The conclusion to which we seem to be brought by all these considerations is that, if the recent decisions involve a reversal of a doctrine formerly enunciated by the court, this reversal has been clearly foreshadowed in the decisions of the last eight years. Moreover, the change of view, or of expression, does not invalidate or make less controlling any earlier decision but merely serves as a guide in determining the merits of future

[1] 193 U. S. 360.

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cases. Finally, the unique position which is assigned to the Supreme Court of the United States in our political system, in consequence of which its decisions on constitutional questions are final, makes it much more important that it conform its judgments to the requirements of changing economic conditions than that it adhere slavishly to opinions which it may at one time have expressed. It will be a sorry day for the country when the judges of the Supreme Court are not sufficiently large-minded to change their views whenever the reasons for so doing clearly outweigh the reasons for continuing to apply principles that no longer command their assent. Thus the important question is not whether the interpretation given to the statute in the recent decisions is consistent with that given to it in earlier decisions, but whether it is correct.

Is it true that the Supreme Court in its recent decisions has inserted the word "unreasonable" in the statute when Congress did not intend that any such limitation should be implied? The numerous citations already given[1] bearing on this point sufficiently answer this question, but it will be well to introduce still another from the last decision, because in it the chief justice sums up in convincing fashion the grounds for the position taken by the court. He says:

> Applying the rule of reason to the construction of the statute, it was held in the Standard Oil case that as the words "restraint of trade" at common law and in the law of this country at the time of the adoption of the Anti-trust Act only embraced acts or contracts or agreements or combinations which operated to the prejudice of the public interests by unduly restricting competition or unduly obstructing the due course of trade or which, either because of their inherent nature or effect or because of the evident purpose of the acts, etc., injuriously restrained trade, that the words as used in the statute were designed to have and did have just a like significance. It was therefore pointed out that the statute did not forbid or restrain the power to make normal and usual contracts to further trade by resorting to all normal methods, whether by agreement or otherwise, to accomplish such purpose. In other words, it was held, not that acts which the statute prohibited could be

[1] *Cf. supra*, pp. 593, 594.

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removed from the control of its prohibitions by a finding that they were reasonable, but that the duty to interpret which inevitably arose from the general character of the term restraint of trade required that the words restraint of trade should be given a meaning which would not destroy the individual right to contract and render difficult if not impossible any movement of trade in the channels of interstate commerce —the free movement of which it was the purpose of the statute to protect. The soundness of the rule that the statute should receive a reasonable construction, after further mature deliberation, we see no reason to doubt. Indeed, the necessity for not departing in this case from the standard of the rule of reason which is universal in its application is so plainly required in order to give effect to the remedial purposes which the act under consideration contemplates, and to prevent that act from destroying all liberty of contract and all substantial right to trade, and thus causing the act to be at war with itself by annihilating the fundamental right of freedom to trade which, on the very face of the act, it was enacted to preserve, is illustrated by the record before us.[1]

Putting the argument in a slightly different way, the question is not between unreasonable and reasonable restraints on trade, since all restraints on trade are expressly condemned by the statute. The question is rather as to the significance of the phrase "restraint of trade" as used in the law. Are the "unlawful restraints" referred to in the title all restraints on competition or only those restraints on competition which the common law, adapting itself from generation to generation to changing economic conditions, condemns as unlawful? To hold that all restraints on competition, however indirect or trivial, are condemned would make the statute ridiculous. In maintaining rather that only direct and substantial restraints on competition, restraints that are "unreasonable" in the sense that they hamper business and conduce toward monopoly, are restraints of trade in the statutory sense, the court makes the law a rational piece of legislation and potentially a useful instrument for giving to initiative and capacity that free field for exercise which Congress has deemed essential to the best interests of the country. Such an interpretation makes the antitrust act a constructive and reg-

[1] 221 U. S. 179, 180.

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ulative measure of reform. The opposite view would make it destructive and revolutionary.

Conclusions

The recent decisions will exert an important influence on future developments in three different directions. (1) They constitute precedents for future decisions. (2) They should contribute toward that clearer formulation of public policy with reference to combinations and corporations engaged in interstate commerce that is one of the most urgent duties now resting on the Congress of the United States. (3) They must affect the forms of organization which the business of the country will assume in future years.

It is one of the disappointing aspects of the decisions that they fail to answer clearly the question which just now most vitally concerns the business community, namely, how far does the statute as interpreted by the court go in its condemnation of great industrial combinations? To present the problem concretely: is the United States Steel Corporation a combination in restraint of trade in the statutory sense or not? I have read with care the reasons given in the decisions for condemning the Standard Oil Company and the American Tobacco Company, and I must confess my inability to give a confident answer to this question.[1] That several of the subsidiary corporations in that great holding company exert substantial control over the departments of the industry with which they are concerned will scarcely be denied. That the corporation itself was organized to avert a period of fierce competition and to avoid the staggering wastes and losses that would have resulted is admitted by all concerned. Finally, that under the leadership of the corporation more or less formal agreements and understandings have taken the place of unregulated competition in determining the prices of many important products is matter of common knowledge. Do these "undisputed facts," in the absence of evidence of a policy of secrecy or of oppression of competitors, convict this largest of the trusts of continuing its existence in violation of the law? If they do, and some expressions employed

[1] The government suit to dissolve the Steel Corporation was commenced after this article was in type, October 26.

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in the recent decisions seem to warrant this conclusion, what proportion of the hundreds of other industrial combinations doing business in the United States fall under the same condemnation? It is to be hoped that the numerous suits now pending will lead to decisions which will rapidly clear up this uncertainty and hasten the re-organization of American business that is necessary to bring it into harmony with the law of the land. Until this consummation is achieved, anything like buoyant prosperity can hardly be expected to return to the country.

The suspense and dread that result from this situation, particularly since the fate of any individual corporation depends in the first instance on the policy of the administration, which cannot possibly prosecute all the trusts at once, are highly regrettable. Mr. Taft has already declared himself in favor of a national act of incorporation to permit, or require, corporations engaged in interstate business to take out federal charters and subject themselves to such regulations as may be coupled with the grant of such charters. Congress should lose no time in working out the details of this policy, which is not and should not become a party issue. In drafting a national incorporation law, it would seem appropriate to specify the acts that would be deemed in restraint of interstate trade or tending toward monopoly and to add to the penalties which the antitrust law imposes upon such acts the further penalty of forfeiture of the federal charter. This part of the law might be so framed as to declare more clearly the intent of Congress by characterizing more specifically the acts condemned. Such legislation would enable corporate officials to know with greater certainty when they were complying with the law. By developing legislation along these lines it would, in my opinion, prove possible to secure for the country the undoubted benefits of combination and organization, without the accompaniment of unfair and oppressive policies toward competitors and of unreasonably high prices that have neutralized these benefits in the past. To realize this aim it may be necessary, as Mr. Wickersham has proposed, to establish a permanent industrial commission, with powers over and responsibilities toward industrial combinations commensurate with those of the Interstate Commerce

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Commission toward the common carriers. This seems to be the direction in which Germany is being propelled in connection with her legalized cartells; and, thus far at least, German experience in this field invites foreign imitation.

The influence which the decisions will have on the forms of business organization to be adopted in the future depends very largely on the promptness and statesmanship which Congress may display in working out a regulative policy for industrial combinations. In many respects the German type of combination—the stable, legalized pool—is superior to the American trust. If American business men and American corporations were given freedom equal to that enjoyed by business in Germany to enter into reasonable agreements for steadying production and avoiding violent fluctuations in prices, the legalized pool, which readily adapts itself to changing economic conditions, would in many instances be preferred to the more rigid single corporation. Under a wise regulative policy it is probable that many different forms of organization would flourish side by side. At the same time, protection from unfair and oppressive methods of competition would be a great encouragement to the small producer and would enable him to regain some of the ground he has lost in the unequal competition he has frequently been compelled to carry on with the unregulated trust.

Some one has grandiloquently declared that "the antitrust act is the Magna Charta of the American business man." Until these decisions were rendered, it might well be doubted whether such a statement was intended in jest or in earnest. The act was applied to the railroads, although there is good reason for maintaining that it would have been better public policy to permit the railroads to enter freely into rate agreements, subject as they are to the regulative control of the Interstate Commerce Commission. It was applied to labor organizations, when in other countries and particularly in the United Kingdom[1] the recent tendency has been to allow in-

[1] *Cf.* my article on "The Legal Status of Trade Unions in the United Kingdom." POLITICAL SCIENCE QUARTERLY, vol. xxii, pp. 611–629.

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creasing liberty to combinations either of workmen or employers engaged in trade disputes. At the outset and for a number of years it was not applied to a single important trust. The recent decisions have at length given it the application which Congress intended. They thus constitute the most important forward step toward a solution of the trust problem that has been taken since the act was passed, twenty-one years ago.

While this aspect of the decisions merits emphasis, it is also true that the distress and confusion into which the enforcement of this long-neglected statute has thrown the business community call imperatively for further congressional action. The prohibition of oppressive monopolies and of combinations in unreasonable restraint of trade is only part, and that the least difficult part, of a solution of the trust problem. Side by side with it must be developed a policy of wise regulation, which will enable the country to enjoy the benefits while it escapes the evils of combination. Instead of criticizing the Supreme Court for its recent decisions or denouncing the administration for its determination to enforce the law, the business community would be better employed in organizing to assist Congress to perform with wise statesmanship the manifest duty which lies before it.

HENRY R. SEAGER.

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THE ECONOMIC ASPECTS OF IMMIGRATION.

THE main question in all present discussions of immigration is: Does immigration injure the economic interests of the American wage-earner? The popular clamor for restriction of immigration proceeds from the assumption that immigration overcrowds the American labor market and swells the ranks of the unemployed, hordes of willing workers being driven by fear of starvation to compete for one job. To remedy this evil foreign immigration must be restricted: keep the "undesirable" immigrants out, and the American workingmen will be kept busy. The more consistent advocates of this view regard all immigrants as undesirable. It is an echo of the Malthusian theory, that population increases faster than the means of subsistence, with this modification, however, that the cause of the disproportion is found, not in the natural propagation of the human species, but in immigration, which is believed to outrun the opportunities of employment.

The present movement for restriction of immigration dates from the Chinese Exclusion Act. The problem of Asiatic immigration is complicated, however, by the injection of the race question. This latter question is not involved in the restriction of immigration from European countries. Freedom of immigration was rejected as a general principle of American law by the act of 1893, which established the present inquisitorial procedure for the admission of immigrants. Still, the restrictive provisions of this law have not affected able-bodied foreign workers seeking admission to the United States. In order to examine the purely economic effects of immigration, let us first take an inventory of the industrial progress of the United States compared with the growth of population for the twenty years during which the present law has been in operation.

I

The population of the continental United States increased between 1890 and 1910 from 63,000,000 to 92,000,000, *i. e.* by

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46 per cent. During the twenty-year period, 1888–1908, the production of coal in the United States nearly trebled, the increase being from 149,000,000 to 416,000,000 short tons. It must be remembered that the year 1908 was one of acute industrial depression. If the years 1887 and 1907 are chosen for comparison, the rate of increase appears much larger, *viz.* from 131,000,000 to 480,000,000 short tons.[1] As the exports of coal from the United States are insignificant,[2] these figures indicate that to-day three times as much coal is consumed in this country as twenty years ago. Coal is the foundation of modern industry. The increased consumption of coal indicates that the consumption of steam has increased threefold, *i. e.* that the whole American industry has grown in proportion. The production of steel, another basic article of modern industry, increased during the twenty-year period 1888–1908 nearly five-fold, from 2,900,000 to 14,000,000 long tons. The effects of the crisis of 1908 on the steel industry were more depressing than on coal mining: the production of steel dropped 40 per cent from the high level reached in 1907. If in this matter again we substitute the period 1887–1907, we shall find an increase of 600 per cent, *viz.* from 3,300,000 to 23,300,000 short tons. The production of copper more than quadrupled during the period 1888–1908, *viz.* from 101,000 to 420,000 long tons. The production of lead more than doubled between 1888 and 1908, the increase being from 152,000 to 310,000 short tons. During the twenty-year period 1887–1907, the increase amounted to 150 per cent.[3] The number of ton-miles of freight carried over American railways nearly trebled from 1890 to 1909, the increase being from 77 billions to 219 billions.[4] The total amount of bank clearings in the United States likewise nearly

[1] United States Geological Survey. Mineral Resources of the United States, 1908, part ii, p. 25.

[2] The net exports of coal from the United States in each of the years 1907 and 1908 amounted to less than 11,000,000 tons, *i. e.* to less than three per cent of the annual production. Statistical Abstract of the United States, 1909, pp. 423, 457.

[3] Statistical Abstract of the United States, 1909, table no. 312.

[4] *Ibid.* *Cf.* also Interstate Commerce Commission, Twenty-second Annual Report on the Statistics of Railways, p. 59. The statistics of the Interstate Commerce Commission do not run further back than 1890.

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trebled in the twenty-year period between 1889 and 1909, having grown from $53,500,000,000 to $158,600,000,000.[1] The increase in the amount of bank clearings may be accepted as a fair index of the aggregate industrial expansion.[2] Thus, while the economic activities of the people of the United States have trebled during the last twenty years, population has increased by less than one-half.

The introduction of labor-saving machinery has lessened the potential demand for new laborers, yet the pace of industrial development has been faster than the progress of invention, as can be shown in the matter of bituminous coal mining. "The average tonnage per man per day had advanced from 2.56 short tons in 1890 to 3.34 tons in 1908, an advance of 30 per cent in productive efficiency."[3] At the same time the production of bituminous coal trebled, increasing from 111,000,000 to 333,000,000 short tons. The growing demand for coal necessitated an increase of the working force from 192,000 in 1890 to 516,000 in 1908.[4] Thus while productive efficiency has increased at the rate of 30 per cent, the actual demand for labor has increased at the rate of 168 per cent. The number of railway employees increased from 749,301 in 1890 to 1,502,823 in 1909, *i. e.* exactly 100 per cent.[5] The average number of wage-earners employed in manufactures increased between 1889 and 1904 from 4,200,000 to 6,100,000 persons,[6] *i. e.* at the rate of 45 per cent in fifteen years, which corresponds to an approximate increase of 60 per cent in twenty years.[7] In reality, the rate of increase of the number of wage-earners employed in

[1] Statistical Abstract of the United States, 1909, table no. 312.

[2] Professor Irving Fisher estimates that the total trade of the United States increased from $191,000,000,000 to $387,000,000,000 in the thirteen years, 1896–1909. The Purchasing Power of Money (The Macmillan Company, 1911), p. 304.

[3] Mineral Resources of the United States, 1908, p. 40.

[4] *Ibid.* pp. 25, 41.

[5] Interstate Commerce Commission, Twelfth Annual Report on the Statistics of Railways, p. 40, and Twenty-second Annual Report, p. 34.

[6] Bureau of the Census, Manufactures, 1905, part i, p. xxxvi.

[7] According to the formula $(1 + x)^{15} = 1.45$, x being the annual rate of increase, the increase for twenty years would be equal to 64 per cent.

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manufactures was much larger, by reason of a "radical difference in the method of ascertaining the average number of wage-earners," which resulted in "materially reducing the total average number of wage-earners" reported for 1905.[1]

II

It has been shown that the demand for labor within the last twenty years has outrun the growth of population, both through natural increase and through immigration. The result has been a constant stream of population from the farming to the industrial sections of the country. This economic phenomenon is lost sight of by those who lament the tendency of the "recent immigrants from southern and eastern Europe" to crowd into the congested cities of the East, "unlike their predecessors of sturdy Teutonic and Scandinavian stock, to whom we owe the development of the agricultural resources of our Central West and Northwest." The disposal of the public domain has left no cheap land available for settlement. The rise of land values in the western states has stimulated emigration of American farmers to the cheap lands of the Canadian Northwest. Under these circumstances it is not surprising that, at the present time, farmers and farm laborers are scantily represented among the Irish, German and Scandinavian immigrants. Among the Slav and Italian immigrants, on the contrary, the majority are farm workers, as is shown in Table I. But, unlike the Scandinavian and German immigrants of the past generation, the Slav or Italian peasant who comes to us today finds no other opportunity open to him in the agricultural sections of the United States but to hire out as a farm laborer, with the uncertain prospect of eventually raising himself to the position of a tenant.

[1] In 1890 "the average number of persons employed was computed for the actual time the establishments were reported as being in operation," whereas in 1900 and 1905 the average number was computed "by using 12, the number of calendar months, as a divisor into the total of the average numbers reported for each month." The effect of this change of method is shown in the case of twelve selected industries, where the average number computed "as an abstract unit (like the foot-pound)" was 475,473, whereas the total "computed on the basis of time in operation would have exceeded 650,000," the variation being as high as 36 per cent. Twelfth Census, Manufactures, part i, pp. cvi, cx and cxi.

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TABLE I. IMMIGRATION OF FARMERS AND FARM LABORERS, 1910 [1]

NATIONALITY	TOTAL NUMBER OF IMMIGRANTS WITH DEFINITE OCCUPATIONS	FARMERS AND FARM LABORERS	
		NUMBER	PERCENTAGE
German	42,117	10,921	24
Irish	32,139	4,113	13
Scandinavian	43,703	7,282	17
South Italian	152,945	88,348	58
Polish	107,862	67,178	62
Ruthenian	24,850	17,273	70
Slovak	26,599	17,049	64
Croatian and Slovenian	35,168	18,228	52
Lithuanian	18,592	11,868	64

Notwithstanding all that is said and written about the scarcity of farm labor, the fact is that labor is in demand on the farms only during a part of the summer, and this at the rates the farmer is able to pay, which are presumably lower than the wages of the common laborer in the cities. The assertion that the foreigners crowd into the cities through ignorance of the opportunities in the farming section certainly does not apply to the native-born country youth, who though fully aware of the opportunities at the home farm prefer nevertheless employment in the cities. If it were true that the oversupply of cheap alien labor in the cities has reduced the rate of wages below the standard that a native-born American workman is willing to accept, while there is a scarcity of labor in the farming sections, the farmer boy, failing to find employment at living wages in the city, would in the long run be forced by economic necessity to return home, where work is assured him on his father's farm. The fact that he stays in the city, despite "back to the soil" harangues, is the best evidence that the same tendency among recent immigrants is due to the relation of supply and demand in the American labor market, and not to the racial characteristics of the immigrants. It is the phenomenal industrial development of the United States that stimulates immigration from

[1] Compiled from the Annual Report of the Commissioner General of Immigration, 1910, table x. The total number is obtained by subtracting from the total admitted those without occupations (including women and children).

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the rural districts of the old and the new world to the great American cities.

III

The primitive method of reasoning which postulates a personal agent for every phenomenon has sought to account for the movement of population from Europe to the United States by "the propaganda conducted by steamship ticket agents." The facts brought to light by the investigation of the Immigration Commission in Europe will tend to dissipate this popular delusion. The commission found that in Greece, which "according to its population furnishes more immigrants to the United States than any other country, . . . solicitation by steamship companies probably plays relatively a small part even as a contributory cause of the movement." In Austria "government officials and others interested in the emigration situation expressed the belief that the solicitations of agents had little effect on the emigration movement, which was influenced almost entirely by economic conditions."

The immigrant is not as simple-minded and credulous as he is popularly represented to be.

> Several American States have attempted to attract immigrants by the distribution in Europe of literature advertising the attractions of such States. A few States have sent commissioners to various countries for the purpose of inducing immigration, but although some measure of success has attended such efforts the propaganda has had little effect on the immigration movement as a whole.[1]

Certainly there are steamship agents in all parts of Europe, and they compete with one another for the passenger traffic. As a rule, however, they reach only those who have already made up their minds to emigrate to the United States.

The number of immigrants varies with the business situation in the United States. This connection is clearly reflected in Table II, which gives the immigration statistics for the fiscal years 1905–1910.[2] The tide of immigration was rising until 1907.

[1] Abstract of the Report on Emigration Conditions in Europe, pp. 31–34.

[2] Annual Reports of the Commissioner General of Immigration; 1908, p. 228, and and 1910, p. 14.

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TABLE II. IMMIGRATION AND EMIGRATION, 1905–1910

YEAR ENDING JUNE 30	ADMITTED (THOUSANDS)	DEPARTED (THOUSANDS)	NET IMMIGRATION (THOUSANDS)
1905	1060	385	675
1906	1166	356	810
1907	1438	431	1007
1908	925	715	210
1909	944	400	544
1910	1198	380	818

During the fiscal year 1908 it dropped at once by half a million, while emigration from the United States increased by nearly 300,000. During the next year immigration remained stationary, but emigration fell off. In 1910 immigration and emigration returned to the level of 1906. The same tendencies appear still more clearly if the returns are compared by months, as in Table III.

TABLE III. AVERAGE MONTHLY IMMIGRATION AND EMIGRATION, 1907–1909

PERIOD	ADMITTED (THOUSANDS)	DEPARTED (THOUSANDS)	NET IMMIGRATION (+) OR EMIGRATION (—)
July 1–October 31, 1907	116	47	+69
November, 1907	132	94	+38
Dec. 1, 1907–Aug. 31, 1908	45	59	—14
Sept. 1, 1908–June 30, 1909	87	30	+57

From July 1 to October 31, 1907, immigration and emigration went on normally. The latter part of October witnessed the outbreak of the crisis, and the next month emigration doubled. Immigration still remained normal, inasmuch as those who arrived here in November had left their homes before the crisis. But from December immigration dropped to one-third of the number of arrivals in November. During the next nine months emigration exceeded immigration by 14,000 persons monthly. From September 1, 1908, the situation began to improve, and the number of immigrants went up again, while the number of departures went down.

The question arises: How does immigration adjust itself to the business situation in the United States? Precisely as the supply of any commodity adjusts itself to the demand. The

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net increase of the population of the United States through immigration for the five years from July 1, 1903 to June 30, 1908, is officially estimated at 3,200,000.[1] Allowance must be made for deaths among these immigrants. The annual death rate in the United States during the same period averaged 16 per 1000.[2] The total number of survivors among the newcomers may be estimated at 2,944,000. In order to live they had to work, beg or steal. If they found work by crowding out others, those who were displaced were confronted with the same alternative. According to an official investigation made by the Bureau of Immigration, the total number of inmates of penal institutions, insane asylums and almshouses in 1908 was 610,477,[3] which included native and naturalized citizens and aliens. The enumeration of the same classes by the Bureau of the Census in 1904 gave their aggregate number as 634,877.[4] A comparison of these figures clearly shows that the large immigration of the five-year period 1903–1908 was accompanied by an actual decrease of pauperism and crime. It is obvious that if the three million new immigrants imposed no new burdens upon the charitable and penal institutions of the country, they must somehow have earned a livelihood. In other words, immigration adjusted itself to the demand for "hands."

The method by which this adjustment is effected is thus described by the Immigration Commission:

> It is entirely safe to assert that letters from persons who have emigrated to friends at home have been the immediate cause of by far the greater part of the remarkable movement from southern and eastern Europe to the United States during the past twenty-five years. There is hardly a village or community in southern Italy and Sicily that has not contributed a portion of its population to swell the tide of emigration to the United States, and the same is true of large areas of Austria, Hungary, Greece, Turkey and the Balkan States. . . . It was fre-

[1] Report of the Commissioner General of Immigration, 1908, p. 228.

[2] Mortality Statistics, 1907, p. 94.

[3] Report of the Commissioner General of Immigration, 1908, p. 96.

[4] Benevolent institutions, p. 12. Paupers in almshouses, p. 6. Insane and feeble-minded in hospitals and institutions, pp. 6 and 207. Prisoners and juvenile delinquents, pp. 14 and 228.

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quently stated to members of the Commission that letters from persons who had emigrated to America were passed from hand to hand until most of the emigrants' friends and neighbors were acquainted with the contents. In periods of industrial activity, as a rule, the letters so circulated contain optimistic references to wages and opportunities for employment in the United States. . . . The reverse is true during seasons of industrial depression in the United States. At such times intending emigrants are quickly informed by their friends in the United States relative to conditions of employment, and a great falling off in the tide of emigration is the immediate result. . . . Emigrants as a rule are practically assured that employment awaits them in America before they leave their homes for ports of embarkation. . . . In fact it may be said that immigrants, or at least newly-arrived immigrants, are substantially the agencies which keep the American labor market supplied with unskilled laborers from Europe. . . . As a rule each immigrant simply informs his nearest friends that employment can be had and advises them to come. It is these personal appeals which, more than all other agencies, promote and regulate the tide of European emigration to America.[1]

These conclusions of the Immigration Commission are corroborated by Table IV, compiled from the reports of the Com-

TABLE IV. INDUCEMENT OF IMMIGRATION

	NUMBERS (THOUSANDS)			PERCENTAGES		
YEAR ENDING JUNE 30	1908	1909	1910	1908	1909	1910
Total immigrant aliens admitted . .	783	752	1042	100	100	100
Going to join relative	596	583	857	76	77	82
Going to join friend	128	122	133	16	17	13
Going to join neither	59	47	52	8	6	5

missioner General of Immigration.[2] It shows that the bulk of the immigrants come to join relatives, and that only a small

[1] Emigration Conditions in Europe, pp. 29–31.

[2] Annual Reports of the Commissioner General of Immigration: 1908, p. 15; 1909, p. 23; 1910, p. 21.

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proportion of those who land here have neither relatives nor friends to meet them on arrival. There is a remarkable coincidence of the percentage ratios for the fiscal years ending June 30, 1908 and 1909. Both were partly affected by the crisis. On the other hand, the year 1910 shows an addition of 274,000, *i. e.* 47 per cent, to the number of immigrants coming to join their relatives, while the number of persons who came in 1908–1910 to join friends and the number of those who seemingly had neither relatives nor friends in the United States exhibit only slight fluctuations from year to year. This means that, as soon as conditions improved, the first thought of the older immigrants was of their kin whom they had left behind; friends came next.

The correctness of this interpretation is supported by Table V, which shows the fluctuations in the number of immigrants

TABLE V. ASSISTED IMMIGRATION

YEAR ENDING JUNE 30	1908	1909	1910
Assisted immigrants (thousands):			
Passage paid by relative	275	220	274
Dependents	243	221	260
Difference	+32	−1	+14
Passage paid by friend	10	8	12

whose passage was paid by their American relatives, compared with the number of dependents admitted—in official terminology, "no occupation (including women and children)"—and also the fluctuations in the number of persons whose passage was paid by persons "other than self or relative," *i. e.* by friends.[1] The fiscal year ending June 30, 1908, included four prosperous months, from July to October, 1907. Moreover, many of those who reached the United States later in the year had been provided with steamship tickets before the crisis.

[1] Annual Reports of the Commissioner General of Immigration: 1908, pp. 15, 35; 1909, pp. 23, 46; 1910, pp. 21, 57.

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Their American relatives and friends must have been saving the money with which their passage was paid for some months previous to their landing. Steamship tickets are quite commonly sold on small weekly payments. The full effect of the crisis therefore manifested itself during the next fiscal year (beginning July 1, 1908), when the number of immigrants who arrived on tickets prepaid by their American relatives dropped twenty per cent. In 1910 their number again came up to the level of 1908. In 1908 the number of such immigrants exceeded by 32,000 the number of dependents coming to join their relatives who had preceded them. Evidently some of the resident aliens had raised the means to send for their brothers, sisters and other self-supporting relatives, in addition to the members of their immediate households. In 1909 the number of immigrants assisted by their American relatives was barely equal to the total number of dependents who came to join their husbands and fathers. Apparently while employment was scarce the foreign-born workman could spare no money to send for his more distant relatives. In 1910 improved business conditions again brought to this country quite a number of breadwinners (14,000) whose passage was paid by their American relatives. The number of immigrants assisted by their American friends showed similar fluctuations.

To sum up: "emigration from Europe proceeds according to well-defined individual plans rather than in a haphazard way."[1] The supply of immigrant labor, like that of any other commodity, may sometimes exceed the demand and at other times fall short of it. In the long run, however, supply and demand approximately balance each other.

Whenever the total of arrivals in one year exceeds the million mark, there is in certain quarters a feeling of alarm. If we compare, however, the totals for industrial cycles, including years of panic, of depression and of prosperity, we find a remarkable regularity in the ratio of immigration to population. In Table VI the addition to population through immigration during the twenty-year period 1891–1910 is collated with the

[1] The Immigration Commission. Abstract of the Report on Emigration Conditions in Europe, p. 30.

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corresponding figures for the preceding two periods of equal length.

TABLE VI. POPULATION AND IMMIGRATION

CENSUS	POPULATION	IMMIGRATION FOR 20 YEARS FOLLOWING		
YEAR	THOUSANDS	THOUSANDS	PERCENTAGE RATIO TO POPULATION AT PRECEDING CENSUS	PERIOD
1850 . . .	23,192	5,019	21.2	1851–1870
1870 . . .	38,558	8,059	20.9	1871–1890
1890 . . .	62,622	12,483	19.9	1891–1910

These figures show that during the past sixty years, notwithstanding the fluctuations from year to year, in the long run the ratio of immigration to population has been well-nigh constant, with a slightly declining tendency as population has grown. Although the total number of immigrants for the period 1891–1910 was 50 per cent in excess of the total for the preceding period, yet the addition to population was relatively smaller during the later period.

IV

It is complained that the recent immigrants from southern and eastern Europe have displaced in many occupations the earlier German and Irish immigrants with a higher standard of living. The statistics of occupations compiled by the Immigration Commission from the original returns of the Twelfth Census show, however, that the actual effect of the recent immigration from Italy and Austria has been a readjustment of the foreign-born population on the social scale. The earlier immigrants, the Germans and the Irish, have worked their way upward, leaving common labor to later immigrants from southern and eastern Europe. An abstract of that compilation is presented in Table VII.[1] It will be observed that the natives of Austria-Hungary furnish a strikingly high proportion of miners, compared with the Germans and Irish. The Poles and Italians furnish a pro-

[1] The Immigration Commission. Abstract of the Report on Occupations *etc.*, Table A.

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TABLE VII. DISTRIBUTION OF FOREIGN-BORN MALE BREAD-WINNERS ACCORDING TO NATIONALITY AND OCCUPATION, 1900 (PERCENTAGES)

OCCUPATIONS	GERMAN	IRISH	ITALIAN	AUSTRIAN	POLISH	HUNGARIAN
Laborers (not on farms) . .	10.2	22.3	33.2	18.8	29.1	22.3
Miners and quarrymen . . .	1.5	3.2	9.2	18.9	7.7	30.0
Steam railroad employees . .	1.5	4.4	6.2	2.1	2.1	1.8
Iron and steel workers . . .	1.7	2.8	0.9	3.8	6.6	5.3
Skilled mechanics [1]	12.0	10.5	8.5	5.6	6.3	5.0
Business and professions [2] . .	18.8	19.1	15.1	13.1	13.4	10.0
Farmers, planters and overseers	20.7	9.4	1.6	5.2	5.7	1.6
All others	33.6	28.3	25.3	32.5	29.1	24.0

portion of common laborers higher than the Irish and much higher than the Germans. On the other hand, one-fifth of the Germans are farmers, whereas the percentage of farmers among the natives of Poland and Austria is very small, and among the Hungarians and Italians it is negligible. The Germans and the Irish likewise show higher percentages of skilled mechanics and of persons engaged in business and the professions.

To throw the social gradation among the various nationalities more into relief, all specified occupations of the preceding table are combined in Table VIII under two heads: (1) higher grade, comprising skilled mechanics, business and professional

TABLE VIII. DISTRIBUTION OF FOREIGN-BORN MALE BREAD-WINNERS ACCORDING TO NATIONALITY AND GRADE OF OCCUPATION, 1900 (PERCENTAGES)

NATIONALITY (AS DETERMINED BY COUNTRY OF BIRTH)	HIGHER-GRADE OCCUPATIONS (PER CENT)	LOWER-GRADE OCCUPATIONS (PER CENT)
German	51.5	14.9
Irish	39.0	32.7
Italian	25.2	49.5
Austrian	23.9	43.6
Polish	20.4	50.4
Hungarian	16.6	59.4

[1] Including men in the building trades, blacksmiths, boot and shoemakers *etc.*, machinists, printers *etc.*, tobacco and cigar factory operatives.

[2] This group comprises the census classes of "professional service," "manufacturers and officials *etc.*" and "trade and transportation" (exclusive of "steam railroad employees").

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men and farmers, and (2) lower grade, comprising laborers, miners, railroad hands and iron and steel workers. More than one-half of all the German immigrants are farmers, skilled mechanics, professional and business men, little more than one-seventh are employed in the coarser grades of labor. Among the Italians, Hungarians and Slavs the proportion is reversed.

The contrast is even more striking between the native white of native parentage and the foreign-born. The statistics of occupation presented in Table IX disclose a tendency among

TABLE IX. DISTRIBUTION OF NATIVES AND IMMIGRANTS ACCORDING TO OCCUPATION, 1900 (PERCENTAGES) [1]

OCCUPATIONS	NATIVE WHITE OF WHITE PARENTAGE	FOREIGN-BORN WHITE
Laborers (not on farms)	8.0	14.5
Miners and quarrymen	1.5	5.1
Steam railroad employees	2.4	2.5
Iron and steel workers	1.1	2.8
Skilled mechanics [2]	9.3	15.3
Business and professions	21.3	18.6
Farmers, planters and overseers	28.3	14.7
Other agricultural pursuits	19.3	6.6
All others	8.8	19.9

the white males of native stock towards agriculture, commercial and professional pursuits, while manual labor, other than farming, is left to the foreign-born. This appears even more clearly in the following summary (Table X):

TABLE X. DISTRIBUTION OF NATIVES AND IMMIGRANTS ACCORDING TO PRINCIPAL CLASSES OF OCCUPATIONS

OCCUPATIONS	NATIVE WHITE OF NATIVE PARENTAGE (PER CENT)	FOREIGN WHITE (PER CENT)
Agriculture, business and professional pursuits	68.9	39.9
All other occupations	31.1	60.1

[1] Twelfth Census, Occupations, table xxxiv.

[2] Blacksmiths, boot and shoemakers *etc.*, carpenters and joiners, engineers *etc.*, machinists, marble and stonecutters, masons, metal workers, painters *etc.*, printers *etc.*, woodworkers, tobacco and cigar-factory operatives.

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It is not true, however, that there has been any displacement of native by foreign labor, even in those occupations which show a higher percentage of foreign-born than of native white of native stock. A comparison of the numbers of miners and laborers in 1890 and 1900 (Table XI) shows a numerical in-

TABLE XI. NATIVE WHITES IN LOWER-GRADE OCCUPATIONS

OCCUPATIONS	1890 (THOUSANDS)	1900 (THOUSANDS)	INCREASE (THOUSANDS)	INCREASE (PER CENT)
Miners and quarrymen. .	111	181	70	63
Laborers (not on farms).	628	958	330	53

crease of native whites of native parentage employed in those occupations. Thus even in such occupations as mining and common labor, where the competition of the immigrants is keenest, the employment of native workmen of native parentage increased from 1890 to 1900 at a rate far in excess of the rate of increase of population through births and immigration, which was only 21 per cent.

In summing up the effect of the influx of recent immigrants upon native American wage-earners and upon the earlier immigrants from Great Britain and northern Europe, the Immigration Commission, despite its pronounced bias in favor of restriction, is compelled to concede an "advancement in the scale of occupation" of some portion "of native Americans and of English, Irish, Scotch, Welsh, and members of other races who constituted the wage-earning classes before the arrival of recent immigrants." This readjustment of the working personnel of the nation has been the result of "the remarkable expansion in manufacturing and mining," which has created "additional places for experienced and trained employees in supervisory and skilled positions." Speaking of the "racial displacement in the various industries," the commission points out that

> earlier employees . . . have been able, because of the demand growing out of the general industrial expansion, to attain to the more skilled and responsible technical and executive positions which require employees of training and experience. . . . This tendency is best illustrated

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by the distribution of employees according to race in the bituminous coal mines. In this industry all the so-called "company" occupations, which are paid on a basis of a daily, weekly, or monthly rate, are occupied by native Americans or by earlier immigrants and their children, while the southern and eastern Europeans are confined to pick mining and to unskilled and common labor. The same situation exists in iron and steel and glass manufacturing, the textile manufacturing industries, and in all divisions of manufacturing enterprise.[1]

V

In all arguments in support of restriction it is assumed as axiomatic that the tendency of recent immigration has been to keep down the wages of American labor. The Immigration Commission reluctantly admits, however, that, in the industries covered by its investigation, "as a matter of fact, it has not appeared . . . that it was usual for employers to engage recent immigrants at wages actually lower than those prevailing at the time of their employment in the industry where they were employed."[2] But the development of industry has been attended "by the invention of mechanical devices and processes which have eliminated the skill and experience formerly required in a large number of occupations."

> [These] inventions have made it possible to operate the plants with a much smaller proportion of skilled and specialized employees than was formerly the case. It is this condition of industrial affairs, as already stated, which has made it possible to give employment to the untrained, inexperienced, non-English-speaking immigrant of recent arrival in the United States.[3]

It goes without saying that unskilled labor is cheaper than skilled labor. Since the native American or the earlier immigrant is a skilled worker, while the recent immigrant is an unskilled laborer, the former, of course, commands a higher wage than the latter. But the difference is due to the grade of employment, not to racial characteristics.

The standards of living of the various classes of wage-workers being necessarily determined by their wages, one must expect

[1] Abstract of the Report on Immigrants in Manufacturing and Mining, pp. 226, 228.

[2] *Ibid.* p. 220.

[3] *Ibid.* p. 221.

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to find generally a greater degree of congestion and retrenchment in a settlement of unskilled laborers than in a neighborhood where the residents are mostly skilled mechanics. The converse proposition, however, that because the immigrant worker has been accustomed to a lower standard of living at home he will be satisfied with less than the standard wages in the United States, is confuted by the economic make-up of our industrial system.

A Polish peasant may have lived in a straw-thatched cabin at home, but in Chicago he will find none for rent, because the owner of a city lot cannot afford the luxury of maintaining such a cabin. The employer of labor must pay to his hands at least enough to provide for the payment of rent to the landlord. And it must be borne in mind that the immigrants are mostly concentrated in great cities, where rent is high, while the native American workmen predominate in small towns with low rents. The American workman may be better housed, but it is the amount expended for rent, not the equivalent in comfort received by the workman, that affects the rate of wages. So when the article produced by immigrant labor in New York must compete in the market with the article produced by native American labor in a small New England town, it is open to question whether immigrant labor is underbidding American labor, or whether the reverse is the case.

As in the matter of rent, so in the matter of wearing apparel. At home the Lithuanian peasant may have walked barefoot, but when he comes to work in the mines of Pennsylvania he must wear American shoes. In the backwoods of his native country he wore a sheepskin coat, which he had inherited from his father. When he comes to work in the stockyards of Chicago he must wear a suit of American clothes. The prices which the alien workman must pay in an American department store for the cheapest shoes and clothes are fixed, not by his imported individual or racial psychology, but by the American manufacturer, the American railway manager and the American department-store proprietor, everyone of them eager to make an American profit, in order to maintain an American standard of living for themselves.

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In the United States the immigrant cannot continue to lead the "simple life" to which he was accustomed at home. Willy-nilly he must from the day of his arrival adapt himself to the American standard of living, because the European standard of living is here simply impracticable.

In comparing the standards of living of the immigrant and of the native American workman, another fact must not be lost sight of, *viz.* that immigrant families are, as a rule, larger than those of native Americans, as is shown in Table XII. Nor, as

TABLE XII. SIZE OF NATIVE AND IMMIGRANT FAMILIES[1]

NATIVITY	AVERAGE NUMBER OF PERSONS PER FAMILY	
	IN PRINCIPAL INDUSTRIES	IN LARGE CITIES
Native white:		
Native father	3.98	3.95
Foreign father	4.46	4.20
Foreign-born	4.65	4.54

Table XIII shows, is the percentage of families supported in part by the earnings of the wife and children higher among immigrants than among other classes of wage-earners. All other things being equal, the up-keep of a larger immigrant family must cost more than that of a smaller native American family.

The fact that the immigrant who has no family in the United States is at first content to deny himself many comforts does not justify the conclusion that he will be satisfied with a wage just sufficient to provide the bare necessities of life. If he denies himself comforts, it is to save money. While the unmarried native workman may save or spend at pleasure, the immigrant, in nearly every case, must save money. If he has

[1] The figures here presented are compiled from the report of the Immigration Commission. The average number of members in a family has been obtained by subtracting from the average number of members per household the average number of boarders per household. *Cf.* Immigrants in Manufacturing and Mining, pp. 149, 153; Immigrants in Cities, pp. 22, 29.

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TABLE XIII. PERCENTAGE OF FAMILIES SUPPORTED IN PART BY EARNINGS OF WIFE AND CHILDREN [1]

NATIVITY	WAGES SUPPLEMENTED BY EARNINGS OF			TOTAL
	WIFE	CHILDREN	WIFE AND CHILDREN	
Native white—				
Native father	3.1	14.0	0.5	17.6
Foreign father	3.0	11.2	0.4	14.6
Foreign-born	3.9	12.8	0.5	17.2

left wife and children in his native country, he must save money to pay their passage. If his own passage was paid by a relative or a friend, he must save to repay his debt. Moreover, hundreds of thousands of immigrants annually return home, and their passage must be paid out of their savings. The number of such emigrants during the panic year 1908 was 715,000. During the same year the number of immigrants whose passage was paid by relatives or friends reached 275,000. Altogether nearly a million immigrants are shown by official records to have saved at least the price of one steamship ticket each, aside from railway transportation between the seaports and the inland points on both sides. At a conservative estimate, the total cost averaged $50 per person, aggregating about $50,000,000 in one year, nearly all of which was handled by the American offices of the steamship companies. In addition to this, large sums of money are annually sent home by the immigrants. It is estimated by the Immigration Commission that $275,000,000 was sent abroad by immigrants in the year 1907. This estimate "does not take into account the large sums carried abroad by returning immigrants." [2] It is evident that the wages of the immigrants must needs be sufficient to enable them to save these hundreds of millions of dollars, after paying American prices for all necessities of life.

After an intensive study of the racial composition of operating

[1] Compiled from the report of the Immigration Commission. *Cf.* Immigrants in Manufacturing and Mining, p. 139.

[2] Abstract of the Report on Immigrant Banks, p. 20.

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forces in the principal industries, based upon information received for more than half a million wage-earners in mines and manufacturing industries, the Immigration Commission has discovered no evidence of employment of immigrants "at wages actually lower than those prevailing at the time in the industry where they are employed." Still, the commission finds "ground for argument or speculation" to the effect "that the availability of the large supply of recent immigrant labor prevented the increase in wages which otherwise would have resulted during recent years from the increased demand for labor." [1]

This, however, is simply begging the question. The commission recognizes that "the industrial expansion which had originally caused the immigration of southern and eastern Europeans was in turn stimulated by their presence, and new industrial undertakings were doubtless projected on the assumption of the continuing availability of this class of labor." It follows, conversely, that had there been no available supply of recent immigrant labor these new industrial undertakings might not have been projected at all. But if they had not been projected there would have been less demand for cheap labor in excess of the available supply and, consequently, less occasion for an increase in wages. Instead of indicating that immigration has prevented an "increase in wages which otherwise would have resulted," the facts brought to light by the investigations of the Immigration Commission furnish ground for the assumption—paradoxical as it may seem at a superficial glance—that the availability of the large supply of recent immigrant labor has prevented a reduction of the wages of the older employees.

The prime force which has made industrial expansion so rapid in recent times has been the general introduction of labor-saving machinery. The immediate effect of the introduction of every new machine has been the displacement of the trained mechanic by the unskilled laborer. The struggle of the workman against the machine in England during the early part of the nineteenth century need not be retold. The economists sought to meet this opposition by the argument that the cheap-

[1] Immigrants in Manufacturing and Mining, pp. 220, 266.

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ness of machine-made products stimulated consumption of manufactured goods and created an increased demand for labor, which in the long run would offset the loss of employment through introduction of machinery. This argument could stand only on the assumption of a very considerable industrial expansion. To use bituminous coal mining as an example: in the mines of West Virginia a team of two skilled pick miners can produce 10 tons of coal a day: but, where machine mining has been introduced, one machine runner with one helper and eight loaders can turn out 50 tons a day.[1] Accordingly, if a force of 100 skilled pick miners produced 500 tons of coal per day, the same output would be produced with the aid of machinery by a force of 20 skilled machine men and 80 laborers. It may be assumed that the requisite number of common laborers would be found in the home market. In order to provide skilled work for the 80 pick miners displaced by the machine, the daily output of coal must be increased to 2500 tons, which would require an additional supply of 320 unskilled laborers. Suppose through restriction of immigration the additional supply of unskilled labor were cut down one-half. The total available supply of labor would then consist of the 20 pick miners who might find employment as machine runners and helpers, the 80 laborers who would displace an equal number of pick miners, the 80 pick miners displaced by the machine and an additional supply of 160 unskilled immigrant laborers, in all 340 men. The force of operatives could then be increased only to 34 teams, consisting of 68 skilled miners and 272 laborers; there would be only 48 vacancies of a higher grade for the 80 skilled miners displaced by machinery; and the remaining 32 would have to accept employment at loading coal—of course at the usual wages paid for common labor. The fact noted by the Immigration Commission that only "a small part" of the old employees, consisting of the inefficient element, are in competition with the recent immigrants, is of course the "result of the expansion of the industry," which has opened to "the larger proportion" opportunities for "advancement to the more skilled

[1] Annual Report of the Department of Mines, West Virginia (1909), pp. xi, 73, 152, 153.

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and responsible positions."[1] These opportunities, however, were conditional upon the availability of a proportionate supply of immigrant labor for unskilled and subordinate positions.

There has been some speculation, originating with the late General Walker, that "less immigration of a character tending to keep down wages and working conditions might have been attended by a larger natural increase among the native-born portion of the population."[2] This argument was answered in anticipation seventy years ago by Professor Merivale of Oxford, who called attention to the self-evident truth that "however rapid reproduction may be, it takes at all events the space of a generation to replace the loss of adult labor."[3]

VI

Wage-earners complain that wages have not kept pace with the rising cost of living, and immigration is held responsible for labor's acquiescence in this indirect reduction of wages. It is maintained, in particular, that the constant influx of new immigrants has made the organization of labor extremely difficult. The statistics of the Immigration Commission show, however, that trade-unionism is as strong among the immigrants as among the native American workmen. The ratio of organized workers to all male wage-earners in each population group is shown in Table XIV. While on the whole trade-unionism is very weak

TABLE XIV. ORGANIZATION OF NATIVE AND IMMIGRANT LABOR[4]

NATIVITY OF WAGE-EARNERS	PERCENTAGE ORGANIZED
Native-born of native father:	
White	13.9
Negro	17.9
Native-born of foreign father	14.1
Foreign-born	13.4

[1] Immigrants in Manufacturing and Mining, p. 262.

[2] *Ibid.* p. 220.

[3] H. Merivale, Lectures on Colonization and Colonies, vol. i, p. 146.

[4] Immigrants in Manufacturing and Mining, p. 141.

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in the field covered by the investigation of the Commission, it is manifest from the practical uniformity of the percentages for each group that distinctions of birth, race and color do not explain this weakness. Neither could a line be drawn in respect of unionism between the "desirable" immigrants from northern and western Europe and the "undesirable aliens from southern and eastern Europe." This fact is brought to light by the comparison in Table XV of the principal immigrant races that are represented by at least 500 persons each [1] in the statistics of the

TABLE XV. ORGANIZATION OF IMMIGRANT LABOR

"DESIRABLE" RACES	TOTAL NUMBER	ORGANIZED	
		NUMBER	PER CENT
French Canadian	573	133	23.2
English	524	87	16.6
Irish	724	107	14.8
Swedish	515	48	9.3
Bohemian and Moravian	537	26	4.8
German	1,101	51	4.6
Total	3,974	452	11.4
"UNDESIRABLE" RACES			
North Italian	881	351	39.8
Lithuanian	1,408	497	35.3
Hebrew	761	163	21.4
Ruthenian	684	144	21.1
Slovak	1,706	234	13.7
South Italian	2,428	258	10.5
Magyar	1,501	146	9.7
Polish	3,280	313	9.5
Total	12,649	2,106	16.6

[1] Smaller groups have been omitted because, where the numbers are small, the ratios are liable to be influenced by exceptional circumstances and local conditions; for example, the highest percentage of organized workmen, 100 per cent, was found among the Mexicans, because the investigators of the commission chanced to come across 56 Mexican miners in a unionized mine. Report, *loc. cit.*, p. 143.

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Immigration Commission. On the whole, the average percentage of union men among the "undesirable aliens" is higher than among the immigrants of the preferred races. The percentage of trade-unionists among North Italians is nearly three times as high as among native Americans of native parentage; the Lithuanians furnish twice as many as the more desirable Englishmen; the Hebrews twice as many as the Swedes; the Ruthenians are far ahead of the Americans of native stock; even the South Italians can boast a percentage twice as high as the Germans; the Magyars and the Slovaks (popularly known as "Huns") march in front of the Swedes; and the Poles, who are at the tail end of the procession of undesirables from eastern Europe, still outnumber two to one their more favored kinsmen, the Bohemians and Moravians. Considering that the native Americans and the members of the races which contributed most largely to the earlier immigration are, as a rule, engaged in higher occupations, where they are for the most part segregated from the recent immigrants, it is clear that the latter could not be an obstacle in the way of organization among the skilled men; and that they have not been an obstacle is shown by the fact that the recent immigrants themselves furnish a higher percentage of organized workmen. Regardless of the opinions of the Immigration Commission, one thing seems to be well established by its statistics, *viz.* that there is no causal connection between immigration and the slow progress of organization among the industrial workers of the country.

The main fact of importance is that even the strongest labor organizations, such as the brotherhoods of railway men, whose places could not be filled by recent immigrants in the event of a strike, have found it impossible to win increases of wages commensurate with the increased cost of living. The reason is that the principal industries today are controlled by combinations, which can afford to hold out as long as they choose, since they can recoup losses occasioned by strikes by increasing prices charged to the consumers. The workmen, on the contrary, cannot strike without end. In the earlier days, when modern industry was still in its infancy and the country was still unsettled, the workmen were in a position, each for himself,

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without any organization, to enforce a high rate of wages. Since, however, combinations of capital in all fields of industry have reduced competition among employers of labor to a minimum, the unorganized wage-earners have no option but to accept the terms offered by the employers.

VII

Would complete exclusion of all immigration eventually assure steady work to all the unemployed and thus enable the workmen to turn the tables on the employers of labor?

According to the Census of 1900, about one-fourth (22.3 per cent) of all workers were unemployed during some portion of that year. An examination of the usual vocations of the unemployed shows that among masons and plasterers more than one-half were out of work a portion of the year. Next follow brick and tile-makers, of whom nearly one-half were at times unemployed. Among paperhangers, the proportion was 44 per cent; among carpenters and painters, over 40 per cent; among fishermen, about one-half; among sailors, one-third. All these occupations are dependent upon the weather. Other trades are dependent upon and decline with these. Then there are seasonal trades, such as tailoring; more than one-fourth (27 per cent) of all tailors were out of work at some period during the year 1900.[1] If all immigration were henceforth excluded, would a roller in a steel mill, when the works shut down in July, hire out as a section hand on a railway? Or could a sailor, who has a summer job on the lakes, find employment in a Jewish tailor shop on the west side of Chicago during the rush months of the winter season? To some extent industry could of course adapt itself to a reduced supply of labor. We know, however, that the mobility of labor is very limited. Should there be a lack of Italian section-hands in the summer to work at railway construction, the contractor could not replace them with Irish sailors, who are out of work in winter. Modern industry must produce unemployment, with or without immigration.

So long as more hands are wanted every year to mine more

[1] Twelfth Census, Occupations, tables lxxxvii and xc.

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coal, iron and copper, to produce more steel billets, to build new railways *etc.*, American capital will be forced to look for new sources of supply of labor, notwithstanding the presence of unemployed at certain seasons in other branches of industry

In all industrial countries there is a steady flow of labor from rural to urban districts. In the United States agricultural laborers are employed on the farms only a few months in the year, the rest of the time they must seek employment in the city. There were, however, in 1900 more than half a million colored servants, who were in fact mere farm laborers, and about a million and a half white servants. Were these two million servants to become industrial workers, they would for a few years fill the gap in the labor market which would result from the suspension of immigration. At the same time, the movement of labor from the farm to the factory must act as a drawback on the growth of farming, and if this movement were stimulated the prices of foodstuffs would rise.

Next comes the machine. At present more than one-half of the output of coal in the United States is still mined without machinery (62.48 per cent in 1908). The shutting-out of immigration would hasten the general introduction of mining machinery. The labor that would thus be displaced would form another substitute for immigration.

Still, should all the substitutes for immigrant labor prove inadequate for the needs of the employers, it must be remembered that capital is international; production has advanced by such rapid strides in the United States because capital has had a sufficient supply of labor. Should there arise a scarcity of labor, American capital will emigrate. Instead of investing their profits in new mines and mills in the United States, American capitalists will export their money to open up new mines and build railways in Mexico, in Mesopotamia, in Manchuria, in Siberia.

Of course, the mines of Idaho and Colorado cannot be moved to Mexico. But it must be borne in mind that a mine can be operated only so long as, after paying all operating expenses, it leaves a margin of profit on the investment. If the cost of mining and transportation does not leave a "reasonable profit"

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to the owner of the mine, he shuts it down. The many abandoned silver mines of the United States bear witness to the truth of this proposition.

Billions of American capital are already invested in Mexican and other foreign undertakings. At present this is but a minor item compared with the profits of American industries annually reinvested at home. If, however, an artificial scarcity of labor were created in the United States, resulting in a rise of wages that would cut down the profits below the average of other countries, more American capital would seek investment abroad. The pace of American industry would slow up, and American capital would find new fields in the industrial development of foreign countries with cheap labor. American goods produced by better paid American labor could not compete in the world's market with the products of Mexican or Siberian labor directed by American capital. This competition would eventually throw out of employment a certain number of American workmen, restoring the normal ratio between the active and the reserve labor forces, which is essential to our industrial system.[1] This outcome could not be prevented by obstructing the movement of workers from one country to another.

Viewing the problem as a practical question of the day, however, it is needless to speculate on the effects of complete exclusion of all immigration, inasmuch as this trade-unionist Utopia is not in sight yet. The Immigration Commission, after considering a series of drastic measures that suggest a reversion to the political philosophy of the Prussian *Polizei-Staat* of the days

[1] "A surplus laboring population is . . . a condition of existence of the capitalist mode of production. . . . With accumulation, and the development of productiveness of labor that accompanies it, the power of sudden expansion of capital grows also. . . . There must be the possibility of throwing great masses of men suddenly on the decisive points without injury to the scale of production in other spheres. . . . The whole form of the movement of modern industry depends, therefore, upon the constant transformation of a part of the laboring population into unemployed or half-employed hands. . . . Taking them as a whole, the general movements of wages are exclusively regulated by the expansion and contraction of the industrial reserve army. . . . They are, therefore, not determined by the variations of the absolute number of the working population, but by the varying proportions in which the working class is divided into active and reserve army, by the increase or diminution in the relative amount of the surplus population." Karl Marx, Capital, part i, ch. xxv, sec. 3.

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of Frederic I, confined its recommendations to the illiteracy test, as the most feasible means to reduce the number of common laborers eligible for admission. What would be the effect of the enactment of this recommendation into law?

The number of illiterates above the age of fourteen among the immigrants admitted during the twelve-year period from 1890–1910 averaged 187,000 annually.[1] An allowance must be made, however, for the number of illiterate women and girls who come to join their husbands and fathers, and who are not likely to be barred under any law. The average proportion of females admitted during the same twelve-year period was 30.5 per cent of all immigrants.[2] An illiteracy test would accordingly bar about 130,000 common laborers annually. A falling off in the number of immigrants returning to their native countries one-half as great as the fluctuation from 1908 to 1909 would more than offset the effect of the proposed restrictive test upon the net annual addition to the ranks of labor.

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[1] Abstract of the Statistical Review of Immigration to the United States, p. 51.

[2] *Ibid.* p. 49.

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STATE TAXATION OF INTERSTATE COMMERCE. I

IT is fundamental in American political theory that neither the Union nor a state shall exercise any power or function inconsistent with the efficiency of the government of the other. Especially must neither interfere with the revenue-raising function of the other; for in the case of governments the right to tax is the right to exist. Never was this principle subject to question. But set over against it the equally well established principle that the states must not interfere with interstate commerce, and the beginnings of endless difficulty are disclosed. The states must derive the revenues necessary for their existence from the business and property within their respective jurisdictions. On the other hand the states must not burden commerce between the states. How reconcile this necessity for revenue with this prohibition of interference? The difficulty is and always was real and serious. That the process of solution should be prolific of vacillation, confusion and error was inevitable. That on the whole the courts have done well with their problem is clear; but that they are not yet free from their coil of perplexity is equally clear.

The leading case in the series is Gibbons *v.* Ogden,[1] deciding it to be beyond the power of a state to give to individuals the exclusive right to operate steamboats on navigable waters within a state. The authority of the state to act in the absence of federal legislation was not involved, inasmuch as Congress had already acted in the premises. It was not questioned that some things incidentally regulative of commerce might be within the authority of the states; for example, quarantine and health laws and the regulation of ferries. In general, the states retain the whole range of authority commonly and vaguely designated as "police power."

In Brown *v.* Maryland[2] a license imposed by the state of Maryland upon importers was declared invalid. This was the

[1] 9 Wheaton, 1 (1824). [2] 12 Wheaton, 419 (1827).

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case that established the distinction between goods in the original package and goods incorporated into the great mass of property. "While remaining the property of the importer, in his warehouse, in the original form or package in which it was imported," an article cannot be subjected to state taxation; a tax upon it is a duty upon imports and is beyond the authority of the state. The duty on imports paid to the federal government is paid for precisely this right to sell the goods within the various states. The license required by Maryland really amounted to a tax upon the occupation of importing; and while a state may tax occupations, it cannot tax this particular occupation. Thus the tax was invalid both as a tax upon imports and as an interference with commerce.

But, as usual, the decision raised more difficulties than it settled. How if the importer were also a handler of domestic products? Were state and local saloon licenses also involved? Might an importer be taxed upon his invested capital, or upon his gross sales, or upon the number of his employees, or upon his dividends or net profits? In Gibbons *v.* Ogden[1] navigation was decided to be commerce. Paul *v.* Virginia[2] excluded insurance from this category; and it also decided that a corporation of another state is not a "citizen" in a sense entitling it to "all the privileges and immunities of citizens in the several states." Corporate existence cannot be projected beyond the jurisdiction of the incorporating power.

In State Tax on Railway Gross Receipts[3] the validity of taxes upon the gross receipts of interstate commerce was brought in question. The state of Pennsylvania had imposed upon the railroads a tax of three-fourths of one per cent on all receipts from business done in the state, domestic as well as interstate. This tax was supported, three justices—Miller, Field and Hunt—dissenting. The decision rested partially upon the theory that this fund of receipts had become, at the time it was taxed, part of the general mass of the properties of the companies: "it has lost its distinctive character of freight earned."

[1] 9 Wheaton, 1.

[2] 8 Wallace, 168 (1868).

[3] 15 Wallace, 284 (1868).

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Granted that a tax upon interstate transportation is invalid, the state may "tax the fruits of such transportation after they have become intermingled with the general property of the carrier." It is obvious, however, that the aggregate receipts for the year's traffic could not possibly have remained, as receipts, in the possession of the railroads. In fact, these receipts had for the most part been spent as operating costs in the very process of earning them, or had been applied to meet fixed charges. It is not surprising that this part of the decision was later repudiated. But there was another ground for the decision worthy of more serious consideration: the states must surely have authority to derive revenue somehow from the railroads, either as a business activity within the state or as an aggregate of invested property. The court argued that any method substantially attaining this end was valid:

> The states have authority to tax the estate, real and personal, of all these corporations, including carrying corporations. Such taxation may be laid upon a valuation or may be an excise. . . . No mode of effecting this, and no forms of expression which have not a meaning beyond this, can be regarded as violating the Constitution.

But here the doubts multiply. Did it matter whether the railroad corporation had a Pennsylvania charter or a national charter or were created in a neighboring state? And what did it mean to term this right of levy an "excise"? On this latter point the court said: "It is a tax upon the railroad measured in amount by the extent of its business or the degree to which the franchise is exercised." This leaves open the question whether the tax is really imposed upon the property, the business being a means of establishing or appraising the property, or whether the business, or the franchise for doing the business, is, as such, subject to taxation. Again: has the state the right to tax a local corporation upon the interstate traffic, so far as this interstate traffic has taken place within the state boundaries? Nor is the meaning of the term "franchise" altogether clear. Was the tax (1) upon the privilege of corporate existence within the state, either (*a*) under the incorporation of the state, or (*b*) under the incorporation of another state; or (2) on the

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value of the privilege; or (3) on the right to act within the state in a corporate capacity; or (4) on the right to do some specific sort of business, *e. g.*, the conveying of goods, either (*a*) within the state, or (*b*) among the states?

In Florida, telegraph lines and, in California, railroad lines had been authorized by Congress. The decisions had made it clear that the jurisdiction of the federal government over interstate commerce empowers Congress to grant these franchises without the concurrence of the state, and even in conflict with the state statutes.[1] This sort of franchise was clearly not subject as such to taxation. But it was not so clear that the value of the franchise was exempt. Especially was it unclear whether, when the possession of the franchise gave additional value to the plant and property within the state, the value of the property must not be distributed into taxable and non-taxable elements.

Not many years earlier two important cases had been decided. In Philadelphia and Reading Railroad *v.* Pennsylvania[2] the state of Pennsylvania had attempted to levy a tax according to the number of tons of freight carried, state and interstate traffic included, and irrespective of "whether the freight be moved one mile or three hundred." It was assumed that a tax of this sort upon intrastate traffic exclusively would stand; but this tax included both intrastate and interstate traffic. Could a tonnage tax (not a ton-mile tax) be accepted as a measure of the value of the business and thereby be justified under the decision previously noted? Justices Swain and Davis, dissenting, so argued. But the court declared the tax invalid:

> Plainly it was not intended to be, nor is it, a tax upon the franchise . . . or upon the property or upon the total volume of business measured by the number of tons of freight carried. On the contrary it is expressly laid upon the freight carried . . . whether . . . moved one mile or three hundred.

It would, it was said, finally rest upon one or both of the parties to the shipment, the railroad serving merely as collector;

[1] Pensacola Telegraph Company *v.* Western Union Telegraph Company, 96 U. S. 1 (1877).

[2] 15 Wallace, 232.

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thus it would reach businesses and individuals outside the state. Under this method interstate commerce might be made impossible. The method was equivalent to a customs tax. "The effect and not the purpose must govern." The economics of this decision may fairly be questioned. It is far from clear that this tax or any other tax on an existing railroad property or business goes over entirely, or even in the greater part, to the shippers. A tax upon the value of the property is certainly open to similar objections and probably in equal degree. But, at any rate, the decision is clear to the effect that interstate commerce may not be burdened by the easy device of mixing interstate with domestic tonnage. If the interstate tonnage could not be taxed alone, the attempt to mingle it with other traffic merely invalidates the whole scheme. The decision implies clearly that, could this tax have been regarded as a tax upon the franchise, it would have been valid. The view of the dissenting justices approved the tax under this interpretation.

The second case, Minot *v.* Philadelphia, Wilmington and Baltimore Railroad Company,[1] sustained a state tax as a franchise tax, or, as the court put it, "a tax on the corporation itself." The state had levied a tax of three per cent upon such share of the net earnings as corresponded to the ratio between the mileage within the state and the entire mileage of the system, and, in addition, a tax upon a corresponding share of the total value of the stock of the railroad. At this time it had not yet become the established law that a tax upon net earnings could be sustained as one method of arriving at the value of the property to be burdened; but it was always clear enough that an *ad valorem* tax, properly assessed, must be sustained. In this case, however, taxation was also attempted upon the value of the stock. It was clear to the court that the two taxes together could not be justified under the *ad valorem* principle, inasmuch as the total result would be over-valuation. And if the tax were upon the stock itself rather than upon the value of the property within the state, the tax would rest upon non-resident as well as upon resident holders. This, however, would not, in the case at

[1] 18 Wallace, 208.

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bar, have been fatal to the tax, inasmuch as, in the charter of the railroad company, such a right had been reserved to the state. But no appeal to the charter was necessary: the tax could be sustained as "a tax upon the corporation." The tax, the court said, "though an arbitrary one, is approximately just, at any rate is one which the legislature . . . was at liberty to adopt." So long as it is "a tax on the corporation," *i. e.* a franchise tax, the manner and the rate, "however arbitrary and capricious, are mere matters of legislative discretion." So likewise of the tax upon net earnings.

In line with both of these earlier cases is Railroad Company *v.* Collector.[1] Under the war income tax the United States had levied upon the dividends on the stocks and upon the interest on the bonds of the railroads, authorizing the companies to deduct the amount of the tax from the payments made to the holders of the stocks and of the bonds. Was this extra-territorial? And if so, did it matter? What was the actual tax-object burdened? If this were really a burden upon the stocks and bonds, many of which were held in Europe, the tax would be extra-territorial. But, while it was implied that the rule against extra-territoriality is not applicable against the United States, it was held that "the tax is essentially an excise upon the business of the class of corporations." The purpose was to tax these corporations upon their business by the measure of their net earnings. It was precisely for this purpose that the interest upon the bonded debt was included with the dividends upon the stock. Whether the corporation, having made the payment, would be entitled to make the deductions was not an issue before the court and was therefore not discussed. Not only, then, does this case corroborate the Pennsylvania decision in interpreting the tax as a franchise or business tax, but it likewise illustrates the disposition of the courts to interpret any given tax in whatever way it may be most readily sustained. A tax is good if by any construction it may be made so.[2]

[1] 100 U. S. 595 (1879).

[2] In a later case, New Orleans *v.* Houston, 119 U. S. 265 (1889), a tax was attempted to be assessed against the stockholders of the Louisiana Lottery, the company being required to pay the tax and being permitted to charge it over against the

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The decision in Railroad Company *v.* Collector was followed in People *v.* Home Insurance Company,[1] and in the same case on appeal.[2] For each one per cent of dividends upon the stock of the insurance company, a New York corporation, the state had levied a tax of one-quarter of a mill. If this had been regarded as a tax upon the property of the corporation, it must have been declared invalid by virtue of the fact that the insurance company was the owner of $200,000,000 of non-taxable United States bonds. And if it had been regarded as a tax upon the stockholders, the case would have been still worse, as the tax would have been extra-territorial. Held, that "the tax in question was in fact levied upon the franchise of the defendant, which would be undeniably lawful." The United States Supreme Court declared:

> It is not a tax in terms upon the capital stock of the company nor upon any bonds of the United States comprising a part of that stock. The statute designates it as a tax upon the corporate franchise or business, the right or privilege, etc. . . . The validity of the tax can in no way be dependent upon the mode which the state may deem fit to adopt in fixing the amount . . . for the license.

The convenient ambiguity of all this talk about a tax or excise upon a franchise or upon a business or upon the right or privilege of doing business or upon the corporation as such, as distinguished from a tax upon its property or upon the stockholders' property in the stock, calls for careful scrutiny.

dividends. The lottery company by its charter was itself exempt from taxation. The tax was held to be really a tax upon the corporation, on the ground that the tax was made payable whether there were any dividends to charge over against it or not. The argument makes it entirely clear that if the tax had been really in every contingency collectible against the stockholders it would have been held valid as a tax upon them and not upon the company.

In United States *v.* Railroad Company, 17 Wallace, 322 (1872), it was directly decided that the right of charging-over made the tax one upon the shareholders and not upon the corporation. In the light of this last decision, the case of Railway Company *v.* Collector may perhaps be regarded as authority merely for the proposition that taxes by Congress are not subject to the rule against extra-territoriality. And it has been held that the federal government may tax foreign-held bonds, proceeding against the corporation, and giving the right of charging-over. United States *v.* Erie Railroad Company, 106 U. S. 327.

[1] 92 N. Y. 328 (1883). [2] 134 U. S. 594.

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It is altogether clear that incorporation under the law of any state is entirely subject to the law of that state and may be conditioned upon any charge, prospective or retrospective, that the state may impose. An incorporation fee or a tax upon the state-given corporate franchise or upon the value of the franchise is a valid tax. But it is equally clear that a state cannot make the business of carrying on interstate commerce conditional upon incorporation under the law of that state. The right of interstate transportation and the right of an incorporated company to transact this business exist independently of the law of the state. This business, or the right or the privilege of doing this business, is not, *as such*, within the taxing power of the state, as later cases have amply decided.[1] But whether the state, notwithstanding its lack of power to tax directly an interstate franchise of transportation, may not indirectly reach the same result by taxing, as a property value within the state, a plant and equipment to the value of which the possession of the franchise has greatly contributed, is another and much more perplexing problem.

As these distinctions were more closely scrutinized, the law relating to the taxation of gross receipts moved toward its final statement. Whether a corporation were taxed on its franchise, or on the right or privilege of doing business, or on the volume of business done as a measure of the value of the franchise or of the right or privilege of doing business, it became increasingly clear that in all of these cases an interference with interstate commerce was involved. The latest case to this effect—a capstone decision for the whole doctrine of taxes on gross receipts—is that of the Galveston, Harrisburg and San Antonio Railroad Company *v.* Texas.[2] It was also perceived that the constitutional status of such a tax would not be bettered by the

[1] Moran *v.* New Orleans, 112 U. S. 69 (1884); Pickard *v.* Pullman Southern Car Company, 117 U. S. 34 (1885); Robbins *v.* Shelby County Taxing District, 120 U. S. 489 (1886); Leloup *v.* Mobile, 127 U. S. 640 (1887). On the other hand it has until very recently been unquestioned that the right of any corporation, domestic or foreign, to do a purely intrastate business may be subjected by the state to any sort of tax or excise or other burden. There is always the option to decline to carry on the business. Allen *v.* Pullman Company, 191 U. S. 171 (1903).

[2] 210 U. S. 217 (1907). *Cf. infra*, p. 657.

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attempt to burden only the gross receipts within the state or only such a portion of the gross receipts as would correspond to the ratio of the state mileage to the whole mileage, since either method would contravene the principle of the freedom of interstate commerce. This was clearly enunciated in many cases.[1]

In these decisions there was no necessary implication that the property of the corporation within the state could not be made to contribute in proportion to its value to the fiscal needs of the state. The right of the state in this regard had, indeed, never been questioned. Would it not, then, be possible to use the gross receipts in some way as a basis for estimating the value of the property or as an evidence of this value? The case of the Western Union Telegraph Company *v.* Massachusetts,[2] decided in 1887, was epoch-making for this aspect of the problem. The state of Massachusetts had taxed the telegraph company, at the average tax rate of the state, upon the basis of such a share of the total value of its stock as should correspond to the ratio between the mileage of the company in the state and its total mileage. The tax was upheld, despite the fact that the company had a federal charter and that this charter had an important influence upon the value of its stock. Justice Miller, in delivering the opinion of the court, said that, while a tax was sometimes called a tax on the franchise or a tax on the stock, "it is essentially an excise upon the capital of the corporation." The method employed to reach a valuation was upheld:

> A corporation . . . is liable to be taxed upon the real or personal property as any other person would be. . . . The tax . . . though nominally upon the shares of the capital stock of the company, is in effect a tax upon that organization on account of the property owned or used by it.

This case was followed, in 1894, in Erie Railroad *v.* Pennsyl-

[1] Fargo *v.* Michigan, 121 U. S. 230 (1886); Philadelphia and Southern Steamship Company *v.* Pennsylvania, 122 U. S. 326 (1886); Ratterman *v.* Western Union Telegraph Company, 127 U. S. 411 (1887); Western Union Telegraph Company *v.* Alabama, 132 U. S. 473 (1889); Stockard *v.* Morgan, 185 U. S. 27 (1901).

[2] 125 U. S. 530.

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vania.[1] The Erie road owned a line partly within Pennsylvania and partly outside; it charged another foreign corporation tolls for the use of this entire line. Pennsylvania imposed a tax of one-eighth of one per cent on a fraction of these tolls, determined by the ratio between the mileage in Pennsylvania and the total mileage over which the tolls were earned. Did it matter that the Erie Railroad had already paid to the state a gross-earnings tax upon the very business on which the state was now attempting to collect a toll tax? It was assumed by the court that a tax upon all tolls earned in the state, regarded as a gross-earnings tax and covering interstate as well as domestic business, would be invalid. Possibly, also, these tolls might result in an increased charge to the foreign corporation. It was regarded as

> settled that . . . duties laid upon the transportation of the subjects of interstate commerce, or on the receipts thereof, or on the occupation or business of carrying it on, . . . can not be sustained. But property . . . may be taxed . . . or a tax may be imposed . . . on account of property within the state, if the assessment of the amount is made dependent in part on the value of the property situated in the state.

The disposition of the United States courts to hold valid any tax which, under any possible construction, can be sustained is well illustrated in Postal Telegraph Company *v.* Adams.[2] Mississippi levied a tax of $3000 on every telegraph company having more than 1000 miles of line in the state, and a tax of one dollar per mile for any company having less than 1000 miles, and it described this tax as a "privilege tax." Since it appeared that the total tax imposed was only about one-fifth of what the property would have paid to the state if the *ad valorem* rate had been applied, the tax was sustained. The Supreme Court said that the tax was to be held valid as a sort of commuted property tax. "Doubtless no state could add to the taxation of property, according to the rule of ordinary property taxation, the burden of a license or other tax on the privilege of using . . . but it may tax the value of the property result-

[1] 158 U. S. 431. [2] 155 U. S. 688 (1894).

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ing from that use." In view of the long line of decisions invalidating taxes upon gross receipts, it must be admitted that the reasoning of this case goes very far.

Returning now to the problem of the power of a state to tax the business or franchise of an interstate carrier, it will be recalled that in 1887, in the case of the Western Union Telegraph Company *v.* Massachusetts,[1] the state was permitted to subject to the general property-tax rate a fraction of the value of the aggregate stock of the company corresponding to the ratio between the mileage inside the state and the total mileage, and that it was held no ground of objection that the value of this stock was in some part due to the federal franchise which the company enjoyed and to the interstate character of much of its business. But later in the same year, in California *v.* Central Pacific Railroad,[2] the question of taxing a federal franchise was presented in a much more simple and more definite form. The railroad company held a federal charter authorizing it to build across the state of California. The California tax law gave the tax assessors powers described as follows: "The franchises, roadway, roadbed, rails and rolling stock of the railroads . . . shall be assessed by the state board at their market value." A separate assessment of the federal franchise did not appear to have been made: "the state board of equalization included in this assessment . . . the value of the franchise conferred . . . by the United States" in determining the value of the property, under a general property-tax law which said that "all tangible property must be assessed at its full and fair value." The tax was none the less held invalid, on the specific ground that a federal franchise was burdened. It should also be noted that the decision was based with equal emphasis upon the fact that the board had illegally assessed steamboats and had inextricably mixed this assessment with the assessment of the railroad. By 1893, however, the contrary doctrine—that of Western Union Telegraph Company *v.* Massachusetts—had become well established. In estimating the value of the prop-

[1] 125 U. S. 530. [2] 127 U. S. 1.

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erty it is immaterial how far this value is due to the exercise of interstate commerce functions. The state need not value railway lines at what they would be worth separately but may value these lines at what they are worth as part of a system:

> While no state can impose any tax or burden upon the privilege of doing the business of interstate commerce, yet it has the unquestioned right to place a property tax upon the instrumentalities engaged in such commerce. . . . The rule does not mean a tax upon the earnings which the property makes, nor upon the privilege of using the property, . . . but [upon] the value of the property that results from the use to which the property is put, and varies with the profitableness of that use. . . . There is no pecuniary value outside of that which results from that use. . . . It is practically impossible . . . to divide its value and determine how much is caused by one use and how much by another.[1]

In 1893, in Regan *v.* Mercantile Trust Company,[2] the question was distinctly raised whether the fact of federal incorporation would place the railroad beyond the reach of state taxation as to its property or as to the intrastate portion of its business; and it was held that the tax, in so far as it was upon the property used, was valid. It was not decided, however, that the federal power could not extend so far as to exempt an interstate-commerce property from taxation—this question was expressly reserved—but only that no such purpose was implied by the mere grant of a federal charter. Nor was it decided whether, had Congress so intended, the authority of the state to regulate rates might not be limited or suspended; no such purpose had been expressed by Congress, nor was such a purpose to be inferred from the mere grant of a federal charter.

Thus far, then, the cases seem to authorize the selection of the actual going value of the property to be burdened as the

[1] Cleveland, Cincinnati and St. Louis Railway Company *v.* Backus, 154 U. S. 439; and Pittsburg *etc.* Railway *v.* Backus, 154 U. S. 421. Cases later than 1887 cited by the court in support of its opinion were: Pullman Palace Car Company *v.* Pennsylvania, 141 U. S. 18; Main *v.* Grand Trunk Railroad, 142 U. S. 217; Charlotte, Columbia *etc.* Railroad *v.* Gibbes, 142 U. S. 386; and Columbia Southern Railroad Company *v.* Wright, 151 U. S. 470.

[2] 154 U. S. 413.

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measure of the tax to be levied and to hold that no analysis or subdivision of this value need be attempted.

> Take . . . a bridge over the Ohio between the states of Kentucky and Ohio. From what springs its entire value? . . . Never was it held that the cost of a thing was its value. . . . Suppose . . . two bridges, . . . the cost of production being the same, one between Cincinnati and Newport, the other twenty miles below, and where there is nothing but a small village on either shore.[1]

Evidently there is not one value for both. Whatever the actual value is, that value may be taxed; and it does not matter that the interstate-business franchise may have some share in making up the total value. Nevertheless, this interstate franchise may not be taxed separately as such, but only as an element in the value of the property as a whole. Nor can the right to transport interstate commodities within or through the state be taxed. The doctrine states simply that, under the general right to tax property within the state, any property within the state falling within the general property tax may be taxed at its actual value, irrespective of the question what facts explain or what factors help to constitute this value.

Meanwhile, however, the case of Maine *v.* The Grand Trunk Railroad[2] had introduced a new and confusing principle into the law and had produced a seeming divergence of authorities. The state of Maine had required that any corporation, domestic or foreign, operating a railroad within the state, should pay a tax "for the privilege of exercising its franchise in the state," which tax "shall be in lieu of all taxes upon such railroad, its property and stock," excepting taxes on its buildings "within or without the right-of-way, and its lands and fixtures outside of its located right-of-way." This tax was levied at a certain percentage of that share of the total gross receipts of the railroad which corresponded to the ratio between the mileage within the state and the total mileage. No reference was made to the value of the aggregate property or to the value of that

[1] Cleveland, Cincinnati, Chicago and St. Louis Railway *v.* Backus, 154 U. S. 439.
[2] 142 U. S. 217 (1891).

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part of the property which was within the state. Was this an interference with interstate commerce? Could the taxation of a part of the gross receipts be held valid as a method of measuring the value of the property taxable by the state? Or was the tax what the law asserted it to be—a tax upon the privilege of exercising the franchise in the state? The majority of the court (four judges dissenting) held that the tax was a tax upon the privilege of exercising the franchise within the state: "There is no levy by the statute upon the receipts themselves, either in form or fact. They constitute . . . simply the means of ascertaining the value of the privilege conferred." But no attempt was made to appraise the value of the privilege. Nor was it considered that the state was attempting to impose, or had the authority to impose, a rent-charge upon the right conferred. The tax was, seemingly, an excise upon the privilege of exercising the franchise of a corporation. It did not matter what method was chosen for determining the amount of this excise, although the basis selected was really a reasonable basis.

The reasoning in this opinion is not altogether clear, but it is clear enough that the tax was not justified as a reasonable method of arriving at an aggregate of value to be taxed. It was not a tax on the property of the railroad, for some of this had already been otherwise taxed. Nor was it a tax on the means and instruments of carrying on the business. It was rather a tax on the business, which, it is true, could be carried on only through these means and instruments. The dissenting judges argued that, because the tax was not an *ad valorem* tax but a tax on the privilege or perhaps a tax on the value of the privilege, it must be invalid. Otherwise there could be one *ad valorem* tax and a second tax equally burdensome upon the privilege.

The earlier cases show, and the later cases make it even clearer, that this decision cannot be sustained on the ground on which it was actually based. Only a year or two earlier, in 1889, it had been decided, in Norfolk and Western Railroad Company *v.* Pennsylvania,[1] that an interstate railroad could not

[1] 136 U. S. 114.

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be taxed for the privilege of maintaining an office in the state. And in 1907, in Galveston, Harrisburg and San Antonio Railroad Company *v.* Texas,[1] this series of authorities closes with a distinct condemnation of any gross-receipts tax which cannot be justified by the test of the *ad valorem* principle. The court gives an excellent summary of the rules established in preceding decisions, in which the Grand Trunk case receives the measure of justification of which it is capable:

> The state must be allowed to tax the property and to tax it as a going concern. On the other hand, the state can not tax the interstate business. The two necessities hardly admit of an absolute logical reconciliation. . . . By whatever name the exaction may be called, if it amounts to no more than an ordinary tax on the property or a just equivalent therefor, ascertained by reference thereto, it is not open to attack. . . . As the property of companies engaged in such commerce may be taxed and may be taxed to its value as it is, in its organic relations, and not merely as a congeries of unrelated items, taxes on such property have been sustained that took account of the augmentation of value from the commerce in which it was engaged. . . . In Maine *v.* Grand Trunk Railroad Company . . . the estimated gross receipts per mile may be said to have been made a measure of the value of the property per mile. . . . That the effort of the state was to reach that value and not to fasten upon the receipts of transportation as such was shown by the fact that the scheme of the statute was to establish a system. The buildings of the railroad and its lands and fixtures outside of the right-of-way were to be taxed locally as other property was taxed, and this excise with the local tax was to be in lieu of all taxes. The language shows that the local tax was not expected to include the additional value gained by the property being a part of a going concern. That idea came in later. The excise was an attempt to reach that additional value.[2]

[1] 210 U. S. 217.

[2] *Cf.* Regan *v.* Mercantile Trust Company, 154 U. S. 413 (1893); Henderson Bridge Company *v.* Henderson City, 173 U. S. 592 (1898); Adams Express Company *v.* Ohio, 165 U. S. 194 (1896). In this last case the court said: "Although the transportation of the subjects of interstate commerce, or the receipts received therefrom, or the occupation or business of carrying it on, can not be subjected directly to state taxation, yet . . . property may be; and whatever the particular form of the tax, if it is essentially only property taxation, it is valid." And the tax in question was declared valid, despite the fact that it was accompanied by local taxes on

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It thus appears that the economic burdens forbidden by one legal theory are permitted by another. The states cannot tax the receipts from interstate commerce as such, but they may refer to such receipts to determine the value of property admittedly subject to their taxing power. A way is thus open for the states to impose burdens on intangible property—"a property created by either the combined use or the manner of use of the separate articles of tangible property, or the grant or acquisition of franchises or privileges, or all together"[1]—although its value is partly dependent upon the fact that the tangible property with which it is associated is employed in carrying on commerce between the states.

This intangible property may be identified with what is termed the unearned increment of the tangible property. The foregoing investigation has indicated a method by which this increment, though in part the product of the right to transact interstate commerce, may be burdened by the states, and furnishes a necessary preliminary to the study of other means by which a similar end may be attained. The consideration of the problems involved in imposing such burdens by other methods of taxation and by regulation other than taxation is reserved for a subsequent article.

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[*To be continued.*]

the realty of the company and by a tax upon the gross receipts derived from interstate business. Four judges, however, dissented.

[1] Justice Brewer, in Adams Express Co. *v.* Ohio, 166 U. S. 185, at p. 219.

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THE ECONOMIC RESULTS OF THE SPECIALIST PRODUCTION AND MARKETING OF WHEAT

THE increase of population in western Europe, especially in Great Britain and Germany, during the past fifty years and the contemporaneous advance in the general standard of comfort have led to an increased consumption of wheat, absolutely and *per capita*. The increased consumption of wheat has promoted, and it has been promoted by, the enlargement of the area devoted to wheat production. The list of countries exporting wheat to western Europe has now become a long one, and the effect of wheat importation into Europe has been to increase the application of agricultural capital to wheat production in these countries and to check it in Europe. Although the yield per acre of wheat in England and in Germany is very much greater than the yield in other countries, the growth of wheat upon lands elsewhere, which do not need or do not receive enrichment, has in general kept the price of wheat down, in spite of the vastly increased demand for it, and has thus rendered wheat farming in western Europe unprofitable. Two factors, however, seem to be making either for a check in the increase of demand in Europe, which would mean a change of diet or a diminution of comfort, or, alternatively, for further advances in the price of wheat, which would probably be accompanied by commercial and industrial readjustments and crises.

(1) The first of these factors is the increase of consumption in the wheat-producing areas themselves. This factor is of especial importance in the United States and in Canada, where the population has been increasing rapidly; and it might be of importance in Russia, if in that country there came to be a higher standard of comfort among the peasantry or the government changed its railway policy with regard to wheat exports.

(2) The second factor is the limitation imposed upon production (*a*) by the limitation of the area, no matter how large it may be assumed to be, which can be devoted to wheat cultivation;

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(*b*) by the progressive exhaustion of the areas devoted to the cultivation of wheat; and (*c*) by the possible diversion of agricultural capital and labor from the production of wheat to the production of other crops.

Both of these factors make for a situation in which, the precise period being matter of speculation, the West-European farmer may once more find wheat a profitable crop, although the profit to be derived from this as compared with other crops would determine to what extent it might be advantageous to cultivate it.

As a countervailing factor it is necessary to take into account a probable, and possibly considerable, increase in the productivity of the wheat areas. As the price of wheat advances, there will be an increasing tendency to divert to wheat cultivation lands which are now used for other purposes and to enrich lands now unintensively cultivated.

Meanwhile the enormous European demand for wheat and the relatively high price which at present is secured for it, have resulted in the specialist growth of wheat, the chief incidents of which it is the purpose of this paper to describe.

I

The development of wheat production to meet the almost continuous increase of demand has involved the application of a great mass of agricultural, industrial and commercial capital to the production, storage, transportation and distribution of wheat. So vast is this mass of capital that it is almost impossible to form even an approximate estimate of its amount. The utmost that can be done is to analyze it into its various elements.

(1) Although the whole capital invested in railway construction and equipment within the areas in which wheat is the predominant crop cannot be charged (so to say) against wheat, yet there can be no doubt that a very large part of it must be so charged. Main lines and branches have been and are being constructed in the United States and in Canada, primarily with the view of bringing out the wheat crop. Thus at least a large part of railway construction and equipment, not merely within

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the wheat-producing area but between that area and the seaboard, must be regarded as having been brought into existence for the sake of the exportation of wheat.

(2) Similarly at least a portion of the costs of canalization, dock accommodation and shipping, with the contingent costs of lighting, buoying and improving the navigation of inland waters and estuaries, must be charged against the movement of wheat to the seaboard; and a portion of the costs of ocean navigation must be similarly debited to wheat exportation.

(3) The provision of elevators, grain warehouses *etc.* at local stations within the wheat area and at shipping and receiving ports must be similarly charged against the wheat trade.

These three large items may be regarded as representing the mass of industrial capital devoted to the collection, transportation and distribution of wheat; but the enumeration of the different forms of capital employed in the total process is not yet exhausted.

The primary form is of course the agricultural capital expended by the farmer in preparing the land, in seeding and in harvesting, as well as the capital invested in agricultural implements and in animals for the conduct of farming operations. In an isolated region, where agriculture is carried on by primitive methods under a system of natural economy, agricultural capital slowly accumulated in seed and in animals is the only capital employed; but when production for sale is undertaken, and particularly when specialist production has practically extinguished natural economy, the reinforcement of agricultural capital by commercial capital comes in practice to be a necessity.

The amount of agricultural capital required by a wheat farmer in the Canadian Northwest is very small. A farmer may take 160 acres on homestead terms by means of a preliminary payment of $10. He may arrange with another farmer or with a ploughing contractor to plough his land for him. The payment exacted for this service will depend upon the acreage to be brought under cultivation. For $200, or thereabouts, he can have 30 acres of new land broken and sown. When the harvest time comes, he may again contract for harvesting and threshing, which will cost him about $120

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more. When the crop is threshed, he may obtain payment for it from the elevator in time to pay his contractor for the harvesting and threshing. He may thus manage to get his crop in and out for an advance, on his own part, of little more than $200. Or he may buy a plough, seed and harvesting implements on credit, devoting his own capital exclusively to the maintenance of himself and his family while the crop is growing. In this case the entire agricultural capital, properly so called, actually employed in field operations, will be supplied by others, while all the labor will be supplied by himself. If, as indicated above, the case of a new settler is taken, a house will have to be built; but the cost of a dwelling is not strictly chargeable as agricultural capital, and in any case it is too variable to be taken into account. The cost of a second year's cultivation by a settler will be much less than that of the first year; it may indeed be only one-half as much.

The great bulk of the agricultural capital employed in the Canadian Northwest is in fact supplied by railway companies, loan companies, banks, implement companies and general dealers. It is only in this way that farmers having little or no agricultural capital at the outset have been able to establish themselves. Moreover, the natural fertility of the unexhausted soil is so great that a very small amount of capital is required per acre. It has consequently been possible to bring a vast area under cultivation by means of a relatively small amount of agricultural capital.

If industrial and agricultural capital alone were employed in the process described, the return of these capitals would be relatively slow. The farmer, the elevator company, the railway company and the steamship company would be compelled to wait until the wheat reached not only the miller but the consumer, were it not for the organization of commercial capital, which forms the connecting link between the successive stages. Commercial capital enables the farmer to obtain payment in cash for his wheat as soon as it is harvested. Commercial capital brings the wheat to the elevator and defrays the cost of storage. It pays all transportation charges until the wheat or flour is finally delivered to the distant consumer. In this way

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commercial capital greatly increases the velocity of return, not alone of agricultural capital, but of the industrial capital invested in the means of transportation. This increase in velocity of return implies increased efficiency; indeed it renders the round of coöperative activities possible. Without it, specialist production for sale at distant places, above all production for export, could not be effected on a scale of any magnitude. Not only does this application of commercial capital enable the farmer to sell his wheat for cash, it also enables him, if he wishes to do so, to borrow upon the security of his wheat and to keep it for an advance in price. This anticipated advance does not always occur; but in any case the farmer is not obliged, through the absence of such facilities, to sell his wheat at once for what it will fetch. Moreover, the extensive organization of credit in the western United States and in northwestern Canada and the competition of the numerous banks and financial companies enable the farmer to borrow at a rate of interest which cannot, as a rule, be regarded as exploitative.

The mechanism by means of which agricultural capital is raised by the farmer on the security of his land is provided by loan companies established for the purpose. These companies are so numerous that the business is competitive and the rates of interest are relatively low. The land itself is conveyed to the settler either on homestead terms or on credit on the instalment plan, and his house is usually an inexpensive structure, so that nearly the whole of his liquid personal capital may be regarded as available as agricultural capital. Additional capital may sometimes be obtained by the farmer, either through credit extended by the agricultural implement makers or by means of the discount of the farmer's notes by them or by a bank.

The elevator companies that purchase the grain from the farmer and organize its transportation to the seaboard, and the merchants who organize its exportation, while having a certain amount of their own capital involved in their respective operations, draw upon the banks for most of their enormous requirements, thus interposing their credit while the capital is really furnished by the banks. Every year large amounts are withdrawn from their liquid funds by the banks in the United States

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and in Canada and are devoted temporarily to the various operations which have been described and which are known collectively as "the movement of crops." Until a few years ago, a large amount of Canadian capital was employed in this way by the banks, in financing crop movements in the United States. At present, not only is a comparatively small amount of Canadian capital used in this way outside of Canada, but bankers in the United States lend large sums to elevator companies for the movement of the crops in Canada. As the population of the United States increases and the surplus of wheat for export from that country diminishes, there will doubtless be further competition of American with Canadian capital in the crop-moving operations in the more northerly country.

Thus the development of the universal wheat market and the internal commercialization of the financial and industrial operations which constitute crop movement have enormously increased the efficiency of agricultural capital and have enabled the farmer to conduct his business on a scale which, without these agencies, would be impossible. This gigantic mechanism has been built up gradually. Upon the smooth interaction of its intricate parts depends the "living" of the American and Canadian farmer and of the European consumer alike.

It is true, in a sense, that under this system the farmer works for the broker; and the farmer is no doubt sometimes under the impression that the whole of the difference between what the consumer pays and what he himself receives is so much taken out of his pocket by a group of remorseless capitalists, whose mere possession of money enables them to exploit the frugal but necessitous cultivator. While occasionally the state of the market may be such as to give at least an apparent advantage to the commercial capitalist, whose representative for the farmer is the elevator company to which he sells his wheat, this is not always the case, and in general the competition is so great that excessive commercial profits are very unusual. The Canadian farmer, who enjoys very great political influence, has been able, through the Grain Acts,[1] to protect himself against any

[1] Especially 63 and 64 Victoria, ch. 39, sec. 58.

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overt forms of exploitation by the grain companies; but here as elsewhere the most effective check upon unfair charges is of course to be found in competition. The collection, transportation and distribution of wheat have come to be conducted on so vast a scale, demanding the industry of so immense an army of persons and employing so large a capital, that monopolization has in effect become impossible. The circumstance that a great mass of capital is required at a certain time for only temporary use renders the application of monopolistic methods more difficult than in other branches of business. Engrossing of wheat is indeed occasionally attempted upon a certain scale; and at moments when, owing to deficiency of crops or other cause, there is a relatively slender surplus of wheat, and still more when there is a real shortage, the first persons who apprehend the situation are not unlikely to benefit. The prospect of certain though relatively small seasonal gains has, however, undoubtedly been a more important influence in drawing into the wheat trade an amount large enough to conduct it upon its present scale than the prospect of large adventitious gains.

It should be noted that both farmers and millers may, and that very many of them do, speculate in their own or in other wheat. The farmer who stores his surplus grain instead of selling it speculates in it. The farmer who sells all his grain without retaining sufficient for seed speculates in it. The farmer who sells his grain in the face of an advancing market and buys grain for future delivery speculates in it. The miller who, after he has bought grain sufficient for his flour-milling requirements, sells grain for future delivery in order to protect himself against a falling price, so that should he lose upon flour he could recoup himself upon wheat, also speculates in wheat.

The fact that wheat is at any moment convertible into cash, its highly liquid character as a security, its great mobility and the rapidity of its movement depend primarily upon the universality of its market and in second instance upon the efficiency of the mechanism of its exchange. Speculation is probably quite inseparable from these conditions. If the speculative element were wholly eliminated from the wheat market, some

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of the mobility which characterizes the system would inevitably be sacrificed.

The two factors that determine the price of wheat on the supply side are the crop, quantity and quality being taken into account, and the reserves from previous years. These together make up the total visible supply when the harvest of a new year is reaped. And, considering each year by itself, prices are relatively at their lowest point at the moment of harvesting, unless some climatic cataclysm suddenly affects the crop; and prices are relatively highest in the spring, when the demand for grain for seed and for consumption appear as concurrent phenomena.

Immediately after harvest, the alternative presented to the farmer and the contingencies which he must consider in solving his all-important problem may be stated as follows:

(1) If he sells his wheat at once to the elevator, he obtains immediate cash, a portion or all of which he needs to replace his impaired or exhausted agricultural capital or to repay advances of such capital.[1]

(2) If he sells his wheat at once, he avoids the necessity of storing it. If he has a large barn he may regard this as an unimportant element; but, if he has a small barn or none at all, the cost of storage has to be considered. If he needs cash, he may store his grain and borrow upon it; but in that case the interest upon the loan must be taken into account in addition to the cost of storage.

(3) If he sells his wheat at once, he will under normal circumstances have to accept a lower price than he will receive later if he holds it and if the price pursues its customary fluctuations.

(4) If he holds his wheat, he takes the risk that the usual advance of the price in spring may not occur. Since the price is not determined exclusively by the supply of wheat in those countries in which the crop is reaped in precisely the same

[1] The elevator companies usually store wheat for thirty days free of charge, so that the farmer has this period wherein to make up his mind what to do. The farmer whose operations are conducted on any considerable scale, watches closely the movements of wheat-prices, sometimes having them telegraphed to him.

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season of the year, and since the price is influenced by many factors other than those that operate on the side of supply, his calculations, however astute, may be upset, and he may secure no higher price than he would have obtained by an immediate sale.

(5) The special conditions of the grain trade in the Canadian Northwest involve further considerations. In order to procure rapid delivery of wheat for export, so that in transporting the crop full advantage may be taken of the relatively cheap water transit through the Great Lakes, the price of wheat is suddenly lowered towards the end of the season of water transportation, that is, in November. This drop in price is intended to offset the cost of storing the wheat at the ports or at interior points until the opening of the next season of navigation, or to make up the difference between the cost of moving the wheat wholly by rail and that of moving the wheat partly by water to the ocean port. The farmer must therefore consider the facts that in September he can get so much for his wheat, certainly; in November so much less, probably; and in May probably so much more, any profit realized in May being diminished by the cost of holding the grain throughout the winter. November and May sales are problematical as regards return. Nevertheless, considerable quantities of wheat in excess of those required for seed are customarily held over the winter by the Canadian farmers, either in the elevators or in their own barns. The mills in Winnipeg and the local mills are of course purchasers throughout the winter, unless they have fully stocked themselves before the winter sets in.

(6) A further consideration that influences sales of wheat is associated with the determination of quality. As a matter of experience the farmer is seldom satisfied with the grading of his wheat at the elevator. He customarily regards his grain as being all of "number one" quality. If it seems probable that it will not be so graded, he may decide to use it for feeding purposes for his animals, if he has any, rather than sell it for what he regards as too low a price.

Having considered the nature of the mechanism, we may now turn to the more important economic results of its operation.

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II

The chief economic results of the development of specialist wheat production may be set forth as follows.

Railways have been built in advance of population into regions known or supposed to be possible wheat-producing areas. In such railway enterprises, even when population follows the railway and wheat production results, the traffic must for a long time be a one-way traffic, and the freight upon wheat must contribute at least a large percentage of the revenue of the line. This question of one-way traffic during the wheat-exporting season is a very serious one for the railway companies. Every year enormous numbers of cars must be concentrated in the West to meet the demands of the wheat traffic, and many of these must be sent empty. The regulation of railway rates and the sharpness with which discriminations are watched and punished in the United States and in Canada render it difficult for the railways to make concessions in order to secure traffic by inducing traders to anticipate their requirements; and the variability of the seasons renders it difficult to estimate, within a week or ten days, the date at which the cars will begin to be required.

The reason why the grain trade is so strictly a seasonal trade is that the most economical means of transport is partly by rail and partly by water. The freezing-up of the lake ports early in December and the closing of lake navigation places a limit upon the duration of the season. After the lake ports are closed, the grain can be carried to the seaboard only at an additional expense. Thus the season is a short one. Beginning in the first days of September, it practically ends, for the farmer, early in November; because a month before the actual close of navigation the elevator companies cease to buy for shipment in order to allow time for transportation to the ports and loading.

The increased production of wheat in new areas induces the provision of facilities other than those offered by the railways, *viz.* elevators, docks, steamships *etc.* Industrial and commercial capital is drawn into these enterprises also. The seasonal character of the grain trade exercises an important influence upon the movement of capital. There is, for example, at the

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season of the movement of crops, a steady stream of commercial capital in the form of cash and credits from New York, Montreal and Toronto to the West, especially to Chicago and Winnipeg. This stream of funds has its source in European credits which begin to be created as soon as shipment of the crop begins. Regularly, although not quite invariably, exchange rises so high, in consequence of the creation of so great a mass of "one-way" credits, that gold is shipped from Europe in the "autumnal drain." It goes without saying that New York provides exchange for both the United States and Canada. The reactions upon the money markets of both continents need not be pursued in the present study.

The entrance of the new wheat into the universal market, unless it merely suffices to satisfy the increased demand due to the increase of population and the rising standard of comfort, must, other things being equal, contribute to the fall of price. This fall of price must in succeeding years tend to drive out of the market those producers who are unable to offer their wheat at the market price without loss. The value of the wheat lands of such producers must fall as wheat lands and they must be abandoned or devoted to other uses.[1]

On the other hand, so long as the demand increases in proportion to or in excess of production, and the price is maintained or rises, the inducement to engage in specialist production of wheat, even on land relatively less suited to such production, is invincible. The farmer will usually cultivate the crop which is most immediately profitable. The value of land so situated that it can be used for the production of the profitable crop will tend to advance more or less rapidly. It will tend to increase sharply when transportation facilities first bring it within reach of the market, and it will tend to advance still further with the

[1] Thus the opening up of the wheat areas in the United States caused a fall in the value of agricultural land in England, and the opening up of the Northwest of Canada caused a fall in the value of agricultural land in Ontario. Even in Manitoba the value of farm lands has been affected by the development of Alberta and Saskatchewan. There can be no doubt that advance of the price of land in the United States, particularly in the Middle West, has been checked by the migration of American farmers to Canada.

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development of contingent facilities until these are fully provided, after which it will tend to remain stationary.

The richer new lands, upon which wheat may be grown with a relatively small amount of labor and of agricultural capital, enjoy, so long as these conditions continue, an advantage. This advantage is further secured by the development of a financial mechanism which increases the velocity of the return of such agricultural capital as is employed and thereby increases its economic efficiency. The establishment of this mechanism for the marketing of wheat and the absence of any equally efficient arrangements for the marketing of other agricultural products, for which the demand is not so great or so universal, induces specialist production of wheat. This specialist production may be and often is carried so far that the wheat producer produces nothing else.[1]

At the present time the specialist wheat farmer finds that by cultivating his land to the fullest extent he may in many cases obtain so high a return as entirely to recoup the cost of his land by the sale of two or three crops. Although the land is exhausted by this successive cropping, and its productive value seriously diminished, the farmer finds himself in possession of from 160 to 640 acres of land which have cost him almost nothing, in a country in which the price of land is rising rapidly. The successful practice of such "mining," as it has come to be called, is one of the elements to be taken into serious account in estimates of the future. So long as it is possible for the farmer to make a considerable sum of money in a few years and then to sell the partially exhausted land at a good price, recommendations of summer fallowing have little practical effect. In spite of the obvious and proved advantages of this system, summer fallowing, although it is increasing, is as yet ap-

[1] In Russia, the wheat farmer sells his wheat and buys potatoes and other foodstuffs relatively inferior. *Cf.* L. E. Lyatschenko, Agrarian Evolution in Russia (in Russian: St. Petersburg, 1908), vol. i, p. 401. In Saskatchewan the wheat farmer at Brandon sells his wheat and buys poultry and eggs brought from Ontario. I am informed, however, that, owing to the high prices prevailing in Ontario for these products, due partly no doubt to the extension of the area of the market, the farmers in the Northwest are turning their attention to the economy of producing them, at least in quantities sufficient for their domestic requirements.

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plied in Canada to a comparatively small proportion of the total area devoted to wheat production. Meanwhile, the new lands are ceasing to be new, and the differential advantage which their unexhausted fertility gave them is diminishing. Lands which formerly produced abundant crops without the exercise of any considerable farming skill or the employment of any considerable farming capital are beginning to require both. The rôle played by the natural resources of the land itself is becoming less important and the rôle played by skill and capital more important. The effect of these changes upon the value of land, as well as upon the earnings of the farmer as cultivator, in distinction from his earnings as landowner, must be studied seriously in the immediate future.

In the preceding discussion the economic influence of climate has not been taken into account. This matter, indeed, cannot be considered apart from the question of skill and of capital. At times, no doubt, climatic cataclysms may involve skilled and unskilled, poor and wealthy farmers in common ruin; but the normal variations of climate affect these classes very unequally. The skilful farmer is not merely weatherwise; he knows how to adapt his system of cropping to the exigencies of the climate of his locality. But after all is said that may be said upon this topic, there remains the patent fact that the regions of equable climate are better suited to competitive farming than are those regions that are subject to great and severe alterations of temperature and of moisture. It is quite true that wheat and other cereals may be grown in very high latitudes, but it is not true that in these latitudes wheat is so certain a crop as it is in more southerly regions. If it is assumed that the demand for wheat will constantly increase, the area devoted to wheat production will tend to increase, up to the limits of physical availability and possible colonization. These limits may shift from time to time, but they are insuperable. Wheat will not grow everywhere and men will not live everywhere. As the price of wheat rises, the lands which have gone out of wheat cultivation owing to the fall of price may return to it; and thus it may reasonably be expected that, at some point in the price scale, the lands of western Europe will return to the competitive market as wheat pro-

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ducers and help to check the advance of price. This resumption of wheat growing will occur first on the lands that are on the margin of cultivation, whether by reason of fertility or because of nearness to markets.

Specialist farming of wheat involves, among other economic incidents, the employment during harvest of a number of laborers in excess of those needed during the remainder of the year. It is clear that such temporary labor can be procured only when there is a surplus of labor in the neighborhood or when the wages offered by farmers are such as to draw laborers from other employments or from a distance. If laborers are to be drawn from a distant center of supply, the wages must include the cost of transportation; and since in this case the labor is required for a short period only, and since as a rule employment cannot be obtained in an agricultural district after the harvest is over, the wages must also include the cost of the laborer's return to the place from which he came. Such conditions have for many years produced an annual migration of Italian field laborers from Lombardy and Piedmont to southern France and of North-Irish laborers to the southern Scottish counties. In Canada also, during recent years, regular harvesters' excursions at reduced fares have been organized by the railways, bringing laborers even from the Maritime Provinces to harvest the crop in the Northwest. Such occurrences emphasize the obvious fact that the total crop of wheat that can be harvested in any region is limited by the number of laborers who reside in the region or who can be temporarily drawn to it for the period of harvesting. The increase in the total yield must therefore inevitably depend upon an increase of population within the farming area, or upon a price so high that the farmers can afford to pay very high wages for assistance drawn from other areas.

A further and important effect of specialist wheat production for export has been the growth of small towns and of a class of small merchants. The census returns both of the United States and of Canada show a progressive increase in the proportion of urban to rural population. This is a tendency neither new nor confined to wheat-producing regions; but specialist wheat pro-

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duction certainly furthers it. Under a system of natural economy, isolation on the farm or in the agricultural village is the rule; under the system in which production of a single staple is carried on for sale and in which everything else which the farmer consumes is purchased by him, the rise of the small town, parasitically attached, as it were, to the agricultural district, is an economic necessity. Here the farmer who turns his attention to general production gains in the establishment of a local market. He gains also in variety of social surroundings, and his children enjoy educational advantages which cannot without disproportionate cost be obtained in sparsely settled districts.

The practical outcome of the foregoing considerations may be stated as follows: The specialist wheat farmer who is cultivating new land must consider that, in the highly competitive market for which he is producing, his rich soil gives him for a time a certain advantage, but that this advantage is not permanent, and that he should insure himself against fluctuation of prices and variation of climatic conditions by setting a portion of his farming profits aside as a reserve fund. There is special reason for so doing if his locality is one in which climatic variations are more or less frequent. The specialist wheat farmer who cultivates in a high latitude or in a dry region must therefore provide for the continuance of his productive capacity by the creation of a strong insurance fund out of the yield of favorable years. The increase of the local valuation of his land does not constitute such a fund; for this increase is uncertain of realization, and it depends upon the non-occurrence of the very contingencies against which it is necessary for him to secure himself. The form which this insurance should take may well be subject to variation, but it is not impossible that the farmer may find it to his advantage to give it an agricultural form by introducing some modification of his specialist production.

Some sort of insurance against falling prices is no less necessary than insurance against an unfavorable season. The specialist farmer is so entirely dependent upon the price of his product in the universal market that whatever affects that price

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affects him; and yet he has no more control of the market than of the weather.

III

Part of the price which the farmer has to pay for the huge commercial mechanism which has brought the elevator to his immediate neighborhood, and which brings the cash for his wheat into his pocket the moment his crop is reaped, is a certain sacrifice of his independence. Formally, with his farm homesteaded and paid for, or purchased upon fixed terms of payment, he is the proprietor of his land in fee simple and is therefore in a sense independent, but he is nevertheless dependent upon the very mechanism which serves him. The price of wheat at Liverpool or at Chicago is of more interest to him than anything else. The quantity of his crop and his yield per acre are of less importance; for in a year of abundant harvests and low prices he may have a small return, and in a year of scarcity and high prices he may have a large return. His fortunes thus depend by no means exclusively either upon the natural resources of his land or upon his own skill or industry, although of course they depend in some measure upon all of these. The only method by which, within the limits of his business as a farmer, he can diminish his dependence upon the external conditions that affect his market, is to produce for more than one market, that is, to have more crops than one. At all events, he can to a large extent insure himself against a disastrous year by producing all the supplies required for the maintenance of his family that can be produced on a farm. In favorable seasons it may appear to be an economical policy to sell everything he produces and to buy everything he needs, but in the long run he may find that this policy may be pushed too far, and that in committing himself completely to the tender mercies of the wheat market he has compromised his economic position and has imperiled the continuance of his production.

In spite of mutual dependence, a struggle between industrial and commercial capital on the one side and agricultural capital on the other must always be going on in a more or less acute form under the conditions of specialist production. In the United

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States and in the Northwest of Canada this antagonism has manifested itself in the Granger and Populist movements and in hostility to the railways and to the elevator companies. The farmer has had enough political power to secure legislative aid, and in Canada the Grain Acts were passed, compelling the railway companies to send to any railway siding for the use of a farmer a car for loading grain. Much objection was expressed by the railway companies to this legislation; and in certain years, when cars were in demand, it has increased the difficulty of conveying the crop to the lake ports before the close of navigation.

The farmer looks upon the railway company and the elevator company as his natural enemies, and there is undoubtedly fundamental cause for the struggle between them. This struggle is determined in its intensity by the presence or absence of obvious competition in transportation and in marketing; but the antagonism is rendered inevitable by the dependence of the specialist producer upon the agencies that carry his produce to market. He is inevitably dependent upon the series of middlemen who stand and must stand between him and the European consumer. The production of wheat for export, which forms an increasing proportion of the total production, and the commercialization of the entire process are at once the source of the farmer's profit and the cause of an economic dependence from which no legislation can fully free him. So long as the production of wheat was only slightly in excess of the requirements of the local mills, and even during the periods when this production was only slightly in excess of the requirements of Canada for domestic consumption, the competition of the local mills and of the agencies of export was sufficient to secure the farmer against exploitation by one or the other. This security, however, did not necessarily involve greater profits to the farmer; on the contrary, his periods of large profits have undoubtedly been concurrent with the diminishing importance of his local market and the increasing requirements of the export market.

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TURKEY IN EUROPE. II[1]

THE "wild" world of today is not western America but southeastern Europe and the confines of Asia. Although this region is populated by Aryans, its condition is lamentably backward. For the most part its social organization is still in the early patriarchal state; and where it is most advanced economically the fact is due either to benevolent and concealed despotism or else, at best, to a half-theocratic clanship or tribal form of government. The physical geography of this vast area, which is utterly unknown to the great majority of intelligent men in the West, determines to a high degree its social structure. Nowhere is the relation between man and his habitat closer; nowhere is politics more sternly conditioned by natural resources and climatic conditions. If there is to be a high civilization in the Balkan peninsula, it will be of a sort unfamiliar to modern Europeans and demanding for generations to come a very charitable and considerate treatment from western nations, but it will be suited to the qualities of the inhabitants. During our time there is perpetual friction; there are frequent clashes with those who claim authority, and some blood is shed. While elsewhere there is the hush of armed peace, among the tribesmen of Morocco and the clansmen of Albania there is the babel of tongues, the shouting of captains, the violence of barbarism, the menace of a spreading conflagration. Warfare, so scientific in the equilibrium of its forces elsewhere, is primitive and brutal wherever the world-politics of the great western powers inflame the local passions of tribal jealousy.

To what extent the great powers are responsible for the unrests of the wilderness and the desert only history as it will be written long hence can determine. Nor will the facts when known be likely to fit snugly into a definite master-scheme of policy. Today for instance we are fully aware of the three widely

[1] A preliminary study appeared in the POLITICAL SCIENCE QUARTERLY, vol. xxiii, pp. 297-319.

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different policies which made a united Italy, respectively exemplified in the work of Mazzini, Cavour and Garibaldi, and though as we get a longer perspective we see how their efforts converged to one result, it is still clear that their aims were widely at variance. Again, the transformations in Cuba and Mexico have been brought about in large measure by daring adventurers, backed by private capital, unscrupulously concealing their motives behind such slogans as patriotism and liberty, choosing for their seat of war the frontier of a powerful and jealous nation in order to menace the temporarily constituted authority with intervention. With affairs in Morocco we have here nothing to do, but all the world understands how skilfully the policing of a frontier has been made a pretext for the overthrow of a rude and corrupt despotism; for the game, as played since the Algeciras conference and before, is played with open hands and cards on the board—a sort of double-dummy. The stake appears to be won, however, in this case, not by one but by all of the players: Germany gets a slice of the French Congo to widen her possessions in the Cameroons; France secures a protectorate over Morocco and rounds out her vast colonial empire in northwestern Africa; Spain is recognized as a power and slightly enlarges her African possessions; Great Britain assures herself the open door. To this end there have been interminable negotiations, emphasized by a warship here and an army there and a fleet set on a war footing somewhere else, but there has been no overt war.

In miniature, something similar has been going on since the spring of 1911 in the Balkans—in microscopic miniature, perhaps, but still on a sufficient scale to give cold shivers to Turkey in Europe, to compel the mobilization of armies and to force the Young Turk government in Constantinople to fulfil some few of the many promises it made when, three years ago, Abdul Hamid was unseated and sent a prisoner to Salonica. My last account of Turkey in Europe was written when the dethroned caliph was feeling quite secure; in other words, when his anxious complots, espionage, bribery, peculation, poses, tergiversations and hypocrisies were all working as well, if not better, than ever. His sudden overthrow was the work of men who, having long

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lived at Paris or elsewhere in western Europe—but, unfortunately, in self-contained groups, ignorant of the aims and methods of European statecraft—believed that they had found in the superficial observation of their surroundings and in the perspective of distance a solution for all the woes of Turkey. Remarking what slender influence was apparently exerted by religious, confessional and even race distinctions, they conceived the possibility of melting together Moslems of every sect, Christians of all denominations and races of every variety within the boundaries of Turkey into a type citizen, a Turk; all alike tolerant one of the other, at least in unessential differences, working together in all essential labors to create a modern nation—and this throughout lands where, until the performance of this miracle, there had been but a congeries of human beings, seeking each his own advantage in the destruction of others, cultivating each his own traditions to the detestation of everyone else's, despising order because the price of order was the endurance of not merely autocratic, but tyrannical, oppressive savagely enforced rule, under commands given in ignorance and sanctioned by brutality.

These well-meaning sciolists in the art and science of politics had an elaborate plan. They secured the coöperation of an army composed of first-class material and trained by the best German teachers. With this wonderful engine they accomplished a *coup d'état* as theatrical and ruthless as any known to history. They then set up what resembled a constitutional government; elections, parliament, checks on the crown and on its functions, administrative, judicial and military. There has since been the outward semblance of free institutions. But two things do not so quickly and easily change: race prejudice and human nature. The army made the new Turkey; the generals are its masters, as far as there is a real control from within throughout the empire. Founded on force, it appeals to force at every crisis. Nothing has yet occurred that indicates a sincere effort to promote true reform. In private circles it is frankly asserted, and even in the newspapers it may be read between the lines, that the greater the apparent change in Turkey the more persistent is its unchanged identity, except in the single respect that for

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the white (silver) bribe the new authorities have substituted the yellow (gold). To get anything done requires ten times the secret-service money now that it did under Abdul Hamid, for the simple reason that there is now a division of powers and the oil in the can has more pivots to lubricate than before. At any rate, while fleet and army equipment, foreign relations, constitutional adaptation, anything and everything except internal reform have been occupying the attention of Constantinople and the newspaper correspondents kept there to supply news to the western world, every single problem of Turkey's local and tribal affairs has remained not merely unsolved but untouched.

The old, disintegrating ideals have been more lively in action than ever. Six millions of Romaic-speaking self-styled Greeks plan, plot and furnish money for the "great idea" of an enlarged Hellas and the restoration of Byzantium. The Moslem Arabs of the great desert peninsula on the Red Sea want governors who are not licensed robbers and a caliph who is an Arab Moslem, not a Turkish half-Giaour. The Macedonians call for an end of rapine and murder. The immense South-Slav or Servian-Croatian population does not forget for an instant the passion for a Great Servia. Bulgaria, the hope of Great Britain in certain eventualities, keenly notes and quickly seizes every important chance for enlargement of her borders or her prestige. She on one side of Macedonia and Greece on the other keep afoot guerilla bands, incessantly troubling the racial and confessional waters of that distracted land. Rumania is quiescent, but she has agents among the Wallachs, a scattered, wild, degraded folk, found half-nomadic in various parts of Macedonia. The difficulties created by these conditions, in connection with similar perplexities in Asia Minor and Syria, have kept Turkey more distracted than ever. A government feebly constitutional, though backed by an obedient army, does not supply the menstruum to dissolve all these mutually repellant elements into even an inchoate nationality.

Optimists were disposed three years ago to believe the Balkan question settled, at least for many years, by the success of the Young Turkey movement—a movement to "turkify" Turkey in Europe. The German and Austro-Hungarian

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writers, especially, summoned the economic hosts of these monarchies to the rich trade banquet set before them. The economic struggle for southeastern Europe, with its magnificent mineral and agricultural resources, was to be renewed with vigor; and the rate at which the trade of German lands with all four of the Balkan kingdoms revived was for a time most satisfactory. Hungary was not quite so successful as Germany and Austria, having on her hands a problem similar to Turkey's and equally exasperating—the "magyarization" of Germans, Slavs, Jews and gypsies.

It is curious that the southeastern portions of Europe and of Asia alike should be ethnographic museums, or rather racial battle-grounds. But no other spot except the southeastern peninsula of Asia is comparable for race confusion, tribal turmoil and widespread anarchy with the great southeastern peninsula of Europe. Accordingly, disinterested pessimists were not disappointed when, during the past season, beginning with the early spring, the race volcano exploded once again and the political earth began to quake. The origin and, in part at least, the continuance of the seismic storm are ascribed by many to the reviving ambition of a ruler, lately moved by dynastic reasons and permitted by other dynasties to change his style of prince to that of king, Nicholas of Montenegro. The occasion was the discontent of tribes hitherto his bitter foes, portions of a mysterious people known to us as Albanians or, from the Turkish designation, as Arnauts, to themselves as Shkipitari, the eagle's brood. Their home is the wild mountain country south of Montenegro, stretching eastward from the Adriatic for about a hundred and fifty miles and southward as far as the confines of modern Greece. It is the country known to classical students as Epirus. The discontent of its inhabitants was due to attempts at "turkification."

The northern portion of Albania and the western half of Montenegro is a country that seems to have been cursed with barrenness. It is purely alpine, and alpine of that wilderness type known as "karst," rocky limestone weathered black. To one who has never seen the "Black Mountains" words cannot describe the forbidding, awe-inspiring nakedness of the "karst."

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Yet everywhere among these rocks is human society of a primitive type. As the earth-fires cooled they left here and there little irregular volcanic funnels, varying in breadth from fifty to five hundred feet. These, either by natural attrition and mould formation or by artificial filling with earth, painfully gathered by hand from the interstices of the rock, or by both means, are now fairly full of soil, which, were sun and temperature more gracious, would yield fair crops. On the lower levels, indeed, there grow the better grains and fruits, but on the inclement mountain sides there are to be seen only a kind of buckwheat, potatoes and the coarser hay grasses. Elsewhere than in these pockets, there are scattered blades of grass, scrubby bush growth of several varieties, with an occasional grove of undaunted dwarf beech or birch and, sometimes, a real tree. Here and there in this wilderness are extensive vales with fertile soil, but as yet these are forest thickets or malarial marshes. Less frequent are stretches a few miles long and broad where the tillage is admirable. The extent of these "karst" regions is very great. They begin as far westward as Carniola and appear at frequent intervals in great expanses over the whole of Europe south of the Danube. But it is in Montenegro and upper Albania that the dismal supremacy of "karst" is undisputed either by nature or by man. Each successive district of Albania southward is more fertile and better tilled, but in all of them the social conditions and the means of communication are primitive.

Our latest state-science has determined that mountain ranges and not river channels form proper boundary lines. Such slopes and summits as we have described are not only a frontier, they are a naturally fortified and garrisoned frontier. The nomad herdsmen who range them are born soldiers, and each carries in his capacious belt his own arsenal of weapons and ammunition. The names by which those on the Montenegrin border are designated are Mirdites and Malissores. Among all the Albanians they have been the fiercest opponents to the oncoming Servian wave of settlement, and their country has been the bulwark of Turkey at its weakest because most inaccessible boundary line. Regular troops cannot be sent in large numbers

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where there are no roads, nor can they be employed to advantage where the only possible type of warfare is guerrilla fighting. Albania was and is the indispensable safeguard of Turkey in Europe against Servian aggression along the Adriatic shore. This can be explained only by a short excursion into anthropology and history.

Of prehistoric man in the Balkan peninsula little is known except from a few excavations, which make us familiar with his rude buildings, his graves, his ornaments and some utensils that have withstood the ravages of thirty-five or more centuries. The dawn of history tells of Illyrians on the Adriatic; of Thracians to the eastward, south of the Danube; and of Scythians north of that river. If, as is held, the primitive peoples were round-headed and of the Mediterranean type, the Thracians, of whom we have portraits in relief carved in stone, were of the North-European type, Germanic in character. Their head dress, body garments and trousers were elaborate in fold and design, the legs being clad either in wide, flowing pantaloons that hung in carefully arranged creases, or else in tight-fitting garments, equally elaborate in creasing, like the leggings familiar to us as puttees. The garb of the Rumanians and some of the Servian peasants is but a slight modification of this Thracian clothing combined with the Roman tunic. The ancient and modern footgear are identical, a sort of laced moccasin called, in the Slavic tongue, *opankas*. The elaborate Thracian hair-dressing also survives. These Thracians included a score or more of stocks, notably the Getians, Dacians and Trojans, not to mention the Phrygians, Mœsians and Lydians. They penetrated in the Balkans as far as Bœotia and Attica, whence they were expelled by the Ionians. They were a numerous and mighty people.

So too were the Scythians—a designation used, however, for two entirely different peoples: one, the Mongolians who overran northern India, the other, like the Thracians, a north-European stock, which, according to the latest indications, came from the shores of the Baltic. These were a fair-skinned, blue-eyed, blonde-haired race. Driven from their seats by the advancing Germans, they moved southward into the heart of Europe, and

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thence southeastward, coming into contact with the Thracians at many points. Their clothing consisted of coat, trousers and shoes, resembling those of their Thracian predecessors, but differing too in important respects. They carried bow, sword and lance, were daring horsemen, steed and rider being sometimes encased in rough armor. Of their many stems the Parthians were the most important. They were not akin to either Finns or Turks. The pictures of Scythians portrayed on contemporary monuments which have been excavated and the character of all the remains found in graves exhibit them as a northern folk. In the opinion of experts their customs were very like those of the ancient Germans, including the blood covenant, the personification and worship of the war-god in the form of a sword, the sacrifice of horses, drinking from skulls and the use of twigs and beef-collops in augury. Similar, also, was their savagery in battle.

Of the third great immigrant stock, the Illyrians, very little is known except that they too were Indo-European, that they came from the North, and that they occupied what today is Servia, Croatia, Dalmatia and northern Italy. The names of about a dozen Illyrian tribes occur in classical literature; the Venetians, Messapians, Iapygians and Liburnians being the most important. Their southward movement, like that of the Thracians and Scythians, appears to have been arrested by the fact that the end of the peninsula was already occupied by an earlier people, the Hellenes or Greeks.

That descendants of all these various peoples, Thracians, Scythians, Illyrians and Greeks, still survive in the Balkan peninsula no one doubts; how numerous, how free from miscegenation with later immigrant peoples is, of course, a question still to be answered, if at all, by anthropological and linguistic studies more thorough than any hitherto undertaken. Hence the wide difference in hypotheses and deductions, both of which are as numerous and unsubstantial as moths flitting around a candle. The Greeks believed that certain Pelasgians had preceded them and had been driven back into the northwestern snow-capped mountains; and consequently there is some fine writing today about the surviving direct descendants of the Pelasgians.

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With the Roman conquest a new element of population was added; there were legionaries, more or less latinized, who for various reasons remained in various parts of the peninsula, from Dacia on the north to Achaia on the south. In the third century of our era still another immigration occurred: that of the Goths, a people of almost pure Germanic race from the north. Thereupon, coming from central Asia, the Huns poured their Mongolian flood across the northern Balkans as far as Constantinople. Early in the fifth century there is mention for the first time of the Slavs. These were in origin Indo-European again, but in their earliest seats they had so commingled with Mongols and Finns that from their very first appearance as a historic force they were clearly a mixed race. About 585 appeared in the same districts another Asiatic people, the Avars. Close upon their heels followed the Bulgars, whose seats had been on the lower Bolga or Volga and whose nearest kinship was with the Turks. They penetrated into Macedonia in large numbers, stragglers advancing even into the Peloponnesus. Once settled, they quickly assimilated themselves, and very closely, with the Slavs; and these Bulgarized Slavs founded an empire which included the lands of the Danube, Wallachia with a part of Hungary, as well as their own territory—a mighty empire which lasted for nearly three centuries. During this period there entered the districts north of the Danube three peoples of unknown descent: the Hungarians, a Ugrian-Turcoman folk from Asia, and two Turkish stocks, the Patzinakians and the Kumanians.

Of the mighty Slav stock much is known. Traces of their earliest settlements have been found clear across Europe as far as Hanover, but the Germans forced them back across the Elbe. Their seats were the banks of the Dniepr river, in what is known today as southern Russia, and the prevailing hypothesis makes them descendants of or close kin to the Scythians, but so commingled with the other race stocks enumerated that they appear to be a composite race. Into the very heart of their vast territory the Hungarians drove themselves like a wedge; and for generations the northern and southern groups lived in different environments and under different conditions—a fact which

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created and perpetuated substantial variations, although in type and language and even in basic institutions they are even now no more differentiated than the Spanish and Portuguese, and much less than the Italians and Spanish or any other two of the Romanic peoples. The South Slavs are first discernible in the Balkan peninsula in the sixth century; in the seventh they began to settle westward of the Bulgarians, south of the Danube, occupying the Roman province of Mœsia, and receiving the contemptuous name of Servians, slaves. In the eighth century they accepted Christianity and down to the eleventh were at best a protectorate, more often a dependency, of Byzantium. In the eleventh century they successively and successfully asserted independence as separate stocks, and in 1165 these were united under a dynasty which in 1222 was recognized by both the pope and by the emperor at Constantinople. They developed a civilization that was quite remarkable; and under the Czar Stephan Duschan (1330–1335) the empire embraced, in addition to its original domains, Macedonia, Albania, Thessaly, Bulgaria and northern Greece. This great Servian conqueror reached the very gates of Constantinople with his summons of surrender; but there he died; and his lands, united only by his imperious will, fell apart, a prey to warring ambitions. In 1453 Muhammed II, the great Osman Turk, after capturing Constantinople, marched onward with his invincible horde, and all the Balkans were soon brought under Turkish sway, a grinding tyranny that lasted nearly four centuries.

These Turks came from the northern and eastern regions of central Asia. A branch of them, the Seljukes, so named from their leader, overran Armenia, parts of Persia and finally Asia Minor. By a union of all their kindred in these Anatolian lands was formed the Osmanlis—another group-name derived from a proper name, that of Osman, foremost of their chiefs. With their appearance in the Balkan peninsula the long roll-call of national and race elements in that distracted portion of Europe is completed. Not one of these elements has remained entirely pure; even those that were fairly homogeneous have admitted alien strains; and the same is true of their languages and institutions. Yet all survive, and all hold fast to their traditions,

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and look forward to the restoration of their ancient dominion and glories. The situation is sadly complicated by the strife of confessions: Islam with Christianity—and alas! a divided Christianity, the adherents of the Greek church, at least among the masses, regarding those of the Roman confession as utter outcasts, and *vice versa*. Both churchs are overlaid with superstitions, intolerance, dogmatic and ritualistic corruptions; but the wonder is only that, after so many centuries of oppression, abuse and degradation, they are not worse than they are.

Briefly to characterize these variegated stocks is difficult, but a few facts must be stated. The Turk is of middle stature, strongly Asiatic type, disposed to obesity. In character he is serious, courteous, hospitable and brave, but intolerant to the verge of brutality. His ethnic composition is displayed in the ingredients of his speech, the original forms and vocabulary of which are overlaid with a mixture of Slavic, Greek, Romanic, Spanish, Persian and Arabic elements, these last two predominating, especially in the scanty literature of the language.

The Slavs of the peninsula are generally designated as Serbo-Croats. They number at least nine million. They are a powerful race, tall and yet sturdy, with heads so domelike and short as to attract the attention of the most casual observer. The Servians are Greek Catholics and use the Cyrillic alphabet; the Croats are Roman Catholics and use the Roman alphabet; nearly all the so-called Turks of Bosnia and the Herzegovina are Muhammedan Slavs. The districts of the Austro-Hungarian monarchy known as Croatia, Carniola, Bosnia, Herzegovina, Dalmatia, Slavonia and Istria are populated almost exclusively by Serbo-Croatians; and there are many of them in Hungary and in both Trieste and Fiume. Servia proper is, of course, exclusively theirs, as too is little Montenegro; but there are many in Bulgaria and even in Rumania, and also in Macedonia and Albania, under Turkish rule. While they vary widely in religion, in costume and, to a certain extent, in habits, yet they speak the same language and are indisputably homogeneous in race. Their language is relatively pure, purer than their originally mixed blood. Ages of oppression did not leave the Servian character unharmed. Those who professed Islam

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under terror became in time thorough Moslems, and so remain, combining the native virtues of the stock with those inculcated in Muhammedan morality; but the great mass of the peasantry grew tricky, shy, lazy and untrustworthy. Their religion could not counteract the degradation of their slavery, and the comparatively short period of emancipation has not sufficed to put them in even the middle rank of stalwart manliness. The life of Belgrade is in many respects sadly debased. The Croatians have improved beyond recognition under Austro-Hungarian rule, in which they share, and the Montenegrins shine in the possession of many primitive virtues. The Montenegrin court is as much a model as that of Belgrade is a warning. For the most part the South Slav, the Serbo-Croatian, is a man of the fields; though his women do more of the burdensome work of tillage than elsewhere in the world. Few are devoted to trade, industry or commerce; but these few seem fairly successful. Such exploitation of the great mineral and forest wealth in their territories as there is—it is as yet inconsiderable—appears to be in the hands of foreigners, who obtain concessions with difficulty and are not over-secure in their possession.

Of the Greeks so much has been said that few words are here needed. Their bitter foes admit that in the Balkan peninsula alone they number six million; the number is certainly larger, probably eight million, and in the Levant there are probably two million more. They are shrewd and successful merchants, amassing enormous fortunes which they liberally distribute for the promotion of Greek interests both in the smaller and greater Hellas. Their agricultural capacities are very limited and inferior. The race is far from pure; there has been a steady ebb and flow of migration within historic times, and the admixture with Slav and other elements is well attested. In middle Greece, in remote mountain vales, in some towns and in some of the islands, the Greek blood flows purest. Elsewhere they have commingled freely with Slavs and Albanians. Tens of thousands of these last are found throughout Greece proper; they have retained their language and their original character, altogether avoiding intermarriage with the Greeks; yet they feel themselves as Greek as their neighbors. In one respect only

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are these immigrant Albanians and the native Greeks almost completely united: they are nearly all of the orthodox Greek confession, and this is a strong bond. There are indeed other bonds: for the most part these Albanians, like the Greeks, are descendants of men who suffered from Turkish oppression, and the two races have a common tradition of bitter hatred against the Turks. They have also in common—and this is perhaps the strongest tie—the omnipresent "great idea," the restoration of the Byzantine Empire with Constantinople as its capital.

The Albanians! This extraordinary folk is the riddle, the puzzle, the mystery of both science and politics in southeastern Europe. As we have already noted, they populate Albania proper almost exclusively; within its bounds Slavs are very rare and Slavism is detested. Some Albanians are Roman Catholics and despise Greek orthodoxy, many more are Moslems and loathe Christianity. There are North Albanians having very little intercourse with South Albanians. They number but a quarter of a million, all told, and of these no fewer than ninety thousand are in Greece. In matters social and political, they appear to represent a development arrested centuries ago, if not in prehistoric times. They are in the tribal stage, in some places in the patriarchal. They have the point of honor developed to the verge of absurdity; and each carries on his person a small arsenal of arms and ammunition. They shave their heads close, except for one untonsured circle on the crown; here is left a kind of hair plume which is the badge of their nationality. They wear gaudy and embroidered garments, which are often neither clean nor whole, and they strut the earth like lords. They have been styled the armed children of Europe. Yet they are admirable as tillers of the soil, obstinate in the defence of their rights, courageous as few others, passionate in their patriotism, loyal to their chiefs, and hospitable to strangers who learn and observe their ways. They are of middle stature and spare frame, lithe and active, and are in almost equal proportions blonde and brunette. They regard themselves as a people because they have one territory and one language, one tradition, and, as they believe, one origin. The Skumbi river divides the Ghegs of the North from

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the Tosks of the South; and though the dialects of the two differ so widely as to make intercourse difficult, yet the differences are those of forms and expressions, not of grammar and vocabulary. The language is made up of very diverse elements. Of 5140 important words about half are importations: 1420 are Rumanian, 1180 Turkish, 840 Greek and 540 Slav; less than 400 are taken to be of ancient Illyrian origin. Nevertheless, the generally accepted hypothesis as to the origin of Albanians is that when the Thracians were driven from their seats they migrated westward, commingled with the Illyrians in the fastnesses of the Albanian Alps, an inaccessible, defensible region of majestic, snow-clad peaks and narrow vales, where eventually a few Goths and some Serbo-Croats gained admission, and that the resultant of all these elements is the persistent, primitive, obdurate Albanian people. Their nearest kin are to be found in certain districts of the Herzegovina, where in type, garb and character certain communities strongly resemble the Albanian. These recognize a degree of relationship, but are slowly being absorbed into the somewhat higher civilization arising under Austrian rule. The Albanians who are living at home, within the Turkish Empire, distrust the new Turkish administration more than the old. The old régime grossly abused the little power it had, but it was so feeble that it dared not impinge deeply on the tribal self-government. The Young Turks, in the effort to bring Albania into their constitutional régime, employed military force; but they succeeded only in exasperating the clans, especially the Malissores and Mirdites of North Albania, into a resistance that could be broken only by extermination. Under pressure from the great powers, the Constantinople authorities were forced to abandon their scheme of amalgamation; the wild tribes of the North secured all their demands, in the South almost equal concessions were made, and Albania is nearer to a united half-sovereign independence than ever. The bulwark of Turkey against Slav encroachment is outwardly maintained, but only by the reversal of the widely heralded policy of "turkification."

The Bulgarians or Volgarians were, if names and traditions have significance, originally an Altaic, Asiatic horde which

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overran large portions of the Balkan peninsula, as nomads do, but were driven back by the Bosnians, Servians, Albanians and Turks into the districts which their descendants now occupy, then settled to a considerable extent by South Slavs. These they subjugated; but, as so often occurs when a lower overcomes a higher civilization, the conquerors adopted the religion, manners and speech of the conquered, began at once to merge with the earlier population, and so inaugurated the process which has made the Bulgarian of today a Greek Catholic (though in a national church not subject to Byzantium), a Slav in dress and style, speaking pure Slavic with only the most trifling modifications, and asserting a separate nationality only in his history, in slight physical traces of Altaic origin and in a slender vocabulary of Altaic words now embodied in the speech of the country. They number about four million; occupy Bulgaria and East Rumelia, which together form their kingdom; have many kinsfolk in Macedonia, to the east of Albania, and some thousands in Rumania. They are of medium height and powerful build; their heads are neither short nor long, but of a middle type, quite their own; and they have oval faces, with rather high cheek-bones. In northern districts some of them exhibit a fairly strong Asiatic type, almost Mongolian, but southward they are more and more purely Slav. Their character is very unlike that of the Servians and Rumanians. Disposed as they are to quick, fierce surges of passion and prompt revenge, they are also intelligent, laborious and thrifty. Like the Servians they are a peasant folk, but both their farming and gardening are admirable, which cannot be said of the Servians. They cling to their picturesque garb, and the women's costumes glow with rich color and effective, though coarse, embroideries.

Scattered far and near over the Balkans is a people almost, if not quite, as enigmatical as the Albanians. They are irreclaimably nomadic, living meanly by the produce of small herds of goats or sheep. In Macedonia, Greece, Servia and Bulgaria their little bands are everywhere found on the mountain sides and upland pastures. Investigators have counted twenty-two different designations by which they are known. The generally

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accepted name in anthropology is that of Aromunes, goat wanderers; but they are most widely known as Vlachs or Wallachs, sometimes as Kutzovlachs. Six hundred years ago they were exactly what they are today. They have not advanced a single step towards a higher civilization, having neither settled habitations nor even the most primitive agriculture. In the countries enumerated above, through which they wander, repeated efforts have been made to subdue their vagabond propensities, and at wide intervals of time and space a small proportion has been established in villages; but the vast majority still roam as before. Their racial unity cannot be doubted. In the first place they have a physical type all their own: middle stature, round faces, coarse but regular features, straight noses, large full mouths, brownish-yellow skins and, for the most part, black hair. The women are most unlovely and are careless in their attire—flowing, coarse garments of skin and rough woollen stuff. Though cautious and suspicious, when reassured they are lively, good-natured and hospitable. Secondly, they speak the same language, the Rumanian. They speak it, of course, with variations, and these extend so far that in Rumania, Hungary, the Bukowina, Russia, Bulgaria and Carniola their speech is called "Dacian Rumanian"; in Macedonia, northern Greece, Epirus, Albania, Servia, Bosnia and Bulgaria it is styled "Arumanian"; in Istria and around Fiume, "Istrorumanian"; and finally, to the north of Salonica, "Meglen." But these variations do not prevent the intercourse of all the stocks with each other, and the language, though composite, is a unit. Its three basic elements are, in the order of importance, Dacian, Latin and Bulgarian, with a very considerable intermixture of Greek, Turkish and Hungarian. Their garb is substantially identical in all places, very different from that of those among whom they mingle: men and women wear wool jackets, pellisses of fur and skin, embroidered shirts (those of the males short, of the females long), over drawers and trousers, with laced sandals of leather, and leggings; the head dress is generally a fur cap, sometimes peaked, sometimes flat. They have the same skill as had the ancient Thracians in folds and pleats, and their passion for color produces a revel of shrieking contrasts. The women

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wear sometimes felt hats, flat or tall, sometimes hoods with ribbon streamers or, again, no head dress at all, except that their hair is drawn back straight and braided. They are still a prehistoric folk, living like troglodytes, using hand mills and clay ovens. They squat in sitting, shake the head to affirm and nod in negation. This extraordinary stock is, of course, most numerous in Rumania itself, the kingdom formed from the one-time Turkish provinces of Moldavia and Wallachia, and now including the Dobrudja. Within this kingdom and in Hungary, much has been accomplished in raising the living standard from that of the nomads who dwell without. Village life has been established, a firm government inaugurated, education regulated and improved, agriculture introduced. The land was from immemorial times in the possession of feudal owners, and the aristocratic families still give direction to the life and customs of the peasantry. For the most part they have been under Russian influence for generations and have had North Slavic blood in their veins as well as North Slavic ideas in their minds. With great pride in the Roman origin which they claim, they turned, after their emancipation, away from Russian influence and the Turkish yoke toward French sources of culture. The refinements of French life have been widely introduced among them; in some cases and in certain ways to the advancement of a real civilization, in other ways and degrees to the practice of excesses due to moral unripeness.

Taking the Rumanians as a nation, for that they are beyond a doubt, the question of their origin is insoluble. The conviction held by themselves, to wit, that they are the direct descendants of Roman legionaries and the *coloni* of old Dacia Trajana, is untenable. In the first place, Vopiscus declares that Aurelian withdrew the Roman soldiery across the Danube out of old Dacia and abandoned the province; in the second place, there is a period of a thousand years in which there is no evidence that Roman *coloni* existed north of the Danube at all; finally, place names are the most persistent archæological records, and of Rumanian place names virtually none are of Latin origin. The great weight of authority is for regarding the present population as a back surge from Dacia Aureliana (Bulgaria and

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Servia), occurring toward the end of the twelfth century. The maintenance of any other theory is substantially a matter of vigorous assertion without direct proof. Those who uphold the thesis of a Roman origin are numerous and skilled in dialectics, but the indirect proof they offer substantially amounts to a claim that in a period of one hundred and sixty years the sparse Roman settlers, whose very existence is doubtful, united with and modified the native Dacian population to such an extent as to create a new race. The anthropologists are as helpless as the historians, so widely do the physical traits of Rumanians, even within the kingdom, differ from each other. In Moldavia the majority are short-headed, in Wallachia the reverse. The majority in both lands have clear-cut features, very many are Roman-nosed, but many have noses and lips of the Mongolian type. Among the brown-haired mass a quarter have black hair, three per cent are blonde and two per cent red-haired. The brows of all are broad and their eye-cavities large; three-quarters are dark-eyed, while the rest have grey eyes, blue eyes being very rare. Such indications give no satisfactory solution of the question.

The two remaining elements of the Balkan population are not numerous relatively, though actually they are so pervasive and so active as to be everywhere in evidence. The Gypsies are the tinkers, the metal-workers. Generally they are nomadic, but in Servia, Bosnia and the Dobrudja there are numerous villages in which they regularly dwell, for the greater part of the year at least. Ragged, unkempt, filthy, importunate, they play an important rôle in necessary occupations which the natives disdain. Finally, there are the Jews, almost exclusively of the Ashkenazi branch; peddlers, shop-keepers, money-lenders or bankers. As creditors they hold entire populations under control. They are sternly orthodox in their inflexible ritual, dogmatic and mysterious in their business transactions. For the most part they speak the Yiddish dialect of German and Hebrew, a tongue unfamiliar to those among whom they live. They are hated and feared; and, especially in Rumania, where they are very numerous, they are savagely persecuted. The superstitious, ignorant folk, made to suffer at the hands of the Jews for their

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unthrift and recklessness in money matters, are easily roused to fury. In Constantinople particularly, in Salonica and, to a less degree, in rural Macedonia, there are colonies of Sephardim, or Spanish-Portuguese Israelites, whose characteristics are entirely different from those of the Ashkenazim, and who generally are respected, often admired, by those among whom they live.

The total population of the Balkan peninsula is not far from thirty-five million, divided approximately as follows: in Turkey, six million; in Bulgaria, four million; in Rumania, nearly seven million; in Servia, nearly three million; in Greece, about the same; in Montenegro, three hundred thousand. The districts of Bosnia, Herzegovina, Croatia, Slavonia and Dalmatia, under Austro-Hungarian sway, have about ten million inhabitants. In blood, in character, in appearance, in language, in institutions, the South Slavic element is overwhelmingly in the majority.

The Rumanians plume themselves on Roman origin, on a high civilization, on modern advancement. They exclude themselves from the sisterhood of Balkan states. They have strained relations with Hungary, which ruthlessly "magyarizes" their kinsfolk within her borders; and they cannot forgive Russia the forced exchange of the fertile Bessarabia for the swampy, dreary Dobrudja. For this district, however, Bulgaria has greedy eyes, as also for expansion in Macedonia. Within both these territories are many Rumanians, and the metropolis does not lose sight of its mission to protect these wherever found; it would, according to the Balkan idea of statesmanship, have a right to intervene in their behalf, if convenient.

But Rumania has no overpowering, all-mastering ambition like that of Bulgaria, which dreams of restoring eventually its pristine glories, and in the meantime of annexing the part of Servia which it considers Bulgarian (Nish-Laskowatz) and the Slavic districts of Macedonia, conclusively proven to be Bulgarian, as they hold, by certain linguistic eccentricities corresponding to their own, and of securing a harbor or two on the Ægean to supplement those it possesses on the Euxine. It is especially embittered because, having conquered Servia in the war of 1885, the Dual Monarchy forbade its gathering any

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fruits of victory. Against Russia it is almost equally exasperated, because, having assumed Bulgaria's debt to Turkey of nearly twenty million dollars, the czar has shown an intolerable tendency to dictation.

The Serbo-Croats have another great idea, equally deep-seated and equally dazzling, to wit, the restoration of the Servian empire, which would include Servia, Montenegro, Bosnia, Herzegovina, Croatia, Slavonia and Dalmatia. The little Servia of today is economically at the mercy of Austria-Hungary, and this double-headed state has firmly grasped the other Servian lands, except Montenegro, physically insignificant, but morally signifying very much indeed. There is therefore a threefold chasm among the Serbo-Croats: the confessional, some being Roman, others Greek; the political, due to the rivalry of Belgrade and Cettinje in scarcely veiled efforts for the leadership; the economic, expressed in the inclinations of many toward the prosperity attained under Austro-Hungarian administration, while others are ready to sacrifice everything for national unity and mastery in the Balkans.

The Greeks, too, still labor with their passion for expansion and dream of the ultimate establishment of a new Greek empire, in possession of Constantinople. They have more brains and, small as Hellas is, more money at their command than any others. They claim, when the question shall again be reopened, not only Epirus and Thessaly but Macedonia also, as well as Crete and the islands on the Asiatic shore of the Ægean.

The Greek claim to Macedonia cannot rest on ethnographical grounds, nor is it much stronger if based on confessional relations. Of a population numbering two and three-quarter millions a tenth only are Greeks. Of the people living under the Greek patriarchate half are Slavs, of whom the great majority, three-fourths, belong to the Bulgarian church. In Macedonia there are 90,000 Spanish Jews, 70,000 Arumanians, 50,000 Albanians and 20,000 Turks. All told, there are almost 100,000 Mohammedans of various race stocks; as in Bosnia, these include the descendants of the upper classes who confessed Islam at the time of the Turkish conquest in order to retain possession of their properties. The language spoken south of Bulgaria is

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in its few idiosyncrasies like that of Bulgaria; to the south of Servia the popular speech is pure Servian.

The Turkey of today exhibits more clearly than ever before its utter dependence on the great powers of Europe and less than ever gives evidence of either actual or possible national life. The faith and trust of the Turks—that is, of the idealists among them who have seen something of western ways—in constitutions and parliaments and unitary administration are pathetic. Their confidence that these institutions will prove the universal solvent of race and religious antipathies and will create a homogeneous, loyal, Turkish people has had many rude shocks.

Only an utterly disinterested traveler, with knowledge of land and people, could get at the truth as to the underlying passions of all the stocks that swarm and seethe and brood and wage guerilla warfare south of the Danube and east of Fiume. Such an investigator has not yet been among them; but from superficial observation and the reading of such investigations as have been made, mostly journalistic and none dispassionate, it seems clear that the race passion of Germanism, arrayed all along the irregular Slavic line and embattled for self-preservation, is likely for many, many generations to embody itself in victorious battalions. The rest of Europe has seen with jealous eyes the consolidation of Germanic empire, not only in Germany itself but in the Austro-Hungarian monarchy, no longer the discordant, jangling congeries of hostile peoples it has so long been, but with the introduction of universal suffrage and a true representative system of government slowly but surely forming a confederate nationality and developing an internal prosperity which soothes asperities. Both British and French pamphleteers have imagined a federation of the Balkan states and a union of South Slavs as a counterbalance to the Dual Monarchy and a possible check upon the steady advance of German power toward the Ægean, across Asia Minor, to the Persian Gulf. Of course all things are possible; but the probability, in the light of recent events, is that the existing conditions in European Turkey will be maintained.

WILLIAM MILLIGAN SLOANE.

[*To be continued.*]

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THE LETTERS OF JOHN STUART MILL[1]

IT would perhaps be too much to say that an adequate survey of the progress of English economic thought in the nineteenth century has been prevented by the long delay in the publication of John Stuart Mill's correspondence. Given a proper combination of economic historian and social philosopher the thing might have been done, even with the material heretofore at hand. A Leslie Stephen with something more of the political economist or a Walter Bagehot with fuller store as philosophical historian would have sufficed. But there has been no such union, and the ordinary attempt to write the later history of political economy in England has given us either shallow resumés or doctrinal chronicles.

This is not surprising. The half-century from Ricardo's death in 1823 to the publication of Marshall's *Economics of Industry* in 1879 finds, to a remarkable degree, interpretation as well as commentary in the economic environment, the personal contacts and the mental history of John Stuart Mill. The period is virtually identical with the span of Mill's intellectual life, and this coincidence is no mere accident.

More even than James Mill or John Ramsay McCulloch, John Stuart Mill was in early youth a Ricardian of the Ricardians. He studied the law and the prophets with an ardor that no student-economist has since approached; he championed controverted principles with precocious vigor; he summarized doctrinal content with ideal succinctness; and he supplied undetermined details with deliberate finality. If ever an intelligence drew form and sustenance from a philosophical creed, John Stuart Mill took these things from the Ricardian-Benthamite economics.

In amazing contrast is the John Stuart Mill of the late sixties. The earlier classicism had developed into a quasi-modernity. James Mill, McCulloch, Torrens, Senior had passed. In their stead came intimacy with Thornton, regard for Cliffe-Leslie, admiration for Cairnes, friendship with Fawcett. The economic theories which in 1824, in rejoinder to Malthus's exaltation of Adam Smith's principles, Mill, no less than McCulloch, aggressively avowed as "the new political economy," had

[1] The Letters of John Stuart Mill, edited, with an introduction, by Hugh S. R. Elliot, with a note on Mill's private life by Mary Taylor. London and New York, Longmans, Green and Company, 1910. Two volumes: xlvi, 312, 408 pp.

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in 1867 become "the doctrines of the old school," full liberation from which, Mill declared, would mark a veritable "emancipation of political economy." Unless it be Dupont de Nemours, who sat at the feet of Quesnay in youth and wrangled with Jean Baptiste Say in old age, or Walter Bagehot, whose boast it was that he was the last man of the ante-Mill period, the history of economic thought has no counterpart for such a life-span.

It is this physical extent of Mill's scientific life, with its incessant activities, its wide participations, its quick response to changing thought and new conditions, that has made students so eager for access to his informal writings. If the class-notes of the "Lectures on Justice, Police, Revenue and Arms" illumine Adam Smith's mental history, and the correspondence with Malthus, McCulloch and Trower make clear many things in Ricardo's text, how much more was to be expected from the rich store of Mill's literary *Nachlass!*

Approached in such high expectancy, the volumes before us are likely, in the first instance, to arouse some disappointment. We are told that Mill "left behind him an almost complete record of his correspondence over a large period of his life," and also that the rough drafts, which he invariably made, "accumulated in the course of years to many thousands." Apparently the descent of this material has been direct, with no intimation of loss. Upon Mill's death in 1873, his papers passed to Miss Helen Taylor; upon the latter's death in 1907, to her niece, Miss Mary Taylor, and thence to the editor. If the expressions quoted are to be reasonably interpreted, the letters here printed must be only a fractional part of the total number. Limitations of space doubtless required omission, and other even more important considerations may have governed; but, objectively considered, the result is interruption and disparity.

There are in all nearly four hundred letters in the two volumes, extending from 1829 to 1873. But of these, more than two-thirds date from the last ten years of the period. Before 1862 we have only 125 letters, and of these ten were written in 1858 and fifteen in 1859. At the writing of the earliest of these—tome-like ("my epistle amounted to a quarto volume") outpourings to John Stirling—Mill was already nearing the end of his first phase, with a decade of intense mental life behind him. For the decade and a half (1834–1848) preceding the appearance of the *Principles of Political Economy*, there are but two or three letters a year, sometimes less and occasionally none at all. It is only after his fifty-fifth year, with his life-work as an economist already long ended, that the record attains anything like adequacy in amount.

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If we turn to the character of the letters, there is a corresponding sense of the detached. In occasion and content the range is tremendous: from a letter to Alexander Bain, recording Mill's first impressions on reading *The Origin of Species*, to a reply to a fourteen-year-old school-boy's note, asking Mill's opinion upon the question: "Is flogging good or bad for boys?" Parliamentary reform, Saint-Simonism, coöperation, Catholic emancipation, plural voting, the American civil war, free trade and protection, Bradlaugh and atheism are among the larger topics discussed; while the interstices are filled by deliverances as specific as that addressed to a lady who sought Mill's advice as to whether she should separate from her husband on grounds of incompatibility of temperament, or that sent to a youth of fifteen who asked Mill's opinion on the subject of predestination, explaining that he wished to become a sailor but was opposed by his parents lest he might be drowned.

Some such variety, the reflex of Mill's active intelligence, would have been inevitable in any selection. But this need not have involved the entire absence, almost avoidance, of connecting links. The economist reader will wonder, for example, that the notable letters addressed by Mill to Fawcett in 1860, to which Leslie Stephen referred, should have been omitted, and that, on the other hand, Thornton's charming letter to Fawcett, describing the daily life at Avignon, which Leslie Stephen had published as far back as 1886, should have been here included without any reference to its earlier use.

Mr. Elliot is of the opinion that, from perhaps 1830, the letters which he has printed supply a tolerably connected history of Mill's life. But this is optimism. Indeed, the principle of selection has been different. As explained by the editor, the volumes contain primarily all letters which Mill, anticipating such a course, had himself marked "for publication," together with those which seemed "to possess an interest, either on account of modern developments in political and philosophical speculation or on some other grounds." As a result, we have not so much the consecutive material from which mental development may be traced as an exhibit of significant but disassociated opinions.

But any first disappointment overcome, the volumes before us take on very high documentary value—a value which will be appreciated, in varying degree, by the biographer of Mill's life, by the student of nineteenth-century political and philosophical thought and by the historian of economic doctrines.

Mr. Elliot's editorial introduction summarizes admirably the prime

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significance of the *Letters* as further biographical material. They disclose an unsuspected emotional bent in Mill's character, and they emphasize his intense mental concentration when involved in any intellectual perplexity. We have, however, little of Mill *intime*. "To me it appears a very weighty matter to write a letter," he confessed to Carlyle; and Carlyle himself was impelled to "desiderate more heartiness." Here and there is a *bonne bouche*. To the author of an economic panacea he wrote in 1858: "I certainly cannot accede to your proposal, that I should not merely study the book which is to refute me and all other political economists, but also assist you in writing it." And in 1854 he declined to become a member of the Honorary Council of the Neophyte Writers' Society on the ground that "there is already an abundance, not to say superabundance, of writers who are able to express in an effective manner the mischievous common-places which they have to say." A labored analysis of his own mode of thinking, for Stirling's solace; his gradual but inevitable reaction from decadent Saint-Simonism; his intense distress at the loss of Carlyle's *French Revolution* and his almost pathetic eagerness to make some financial recompense; the break with the *Westminster* and the founding of the *London Review;* the circumstances connected with his parliamentary defeat—these are among the incidents which, if not positive additions to our knowledge of Mill's life and activities, will yet be welcome material to Mill's biographer.

Of Mill's emotional fervor we have evidence, not only in the warmth of his friendship with Carlyle and Sterling and in his historic passion for Mrs. Taylor, but in a many-sided desire for human betterment, were it the abolition of slavery, the emancipation of woman or the spread of industrial coöperation. I can not go as far as the editor, who asserts that emotional intensity was the origin of Mill's social and political interests, and that his political and economic studies were prosecuted "to satisfy his restless desire to improve the lot of mankind," rather than inspired by "the truly scientific spirit whose sole purpose is the discovery of truth"; but it is certain that the alternate title of his great economic treatise—"with some of its applications to social philosophy"—assumes a deeper significance when read in the light of the new evidence of his keen and wide sympathies.

Occasionally this emotional susceptibility passed into an elephantine æstheticism; as when he said, of Wordsworth's poetry: "He has advanced that great subject beyond any other man, being probably the first person who ever combined, with such eminent success in the practice of the art, such high powers of generalization and habits of medita-

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tion on its principles"—an opinion which suggests Ricardo's tribute to Rubens's "Descent from the Cross." But, on the other hand, nothing could be finer than the lines to Stirling, then in the shadow of death: "I have never so much wished for another life as I do for the sake of meeting you in it. . . . I shall never think of you but as one of the noblest, and quite the most lovable of all men I have known or ever look to know." Even the chilling phrases which warded off an impending visit from Gompertz, his German translator, and brought upon that enthusiastic admirer a nervous breakdown from which he never fully recovered, were followed by expressions of "unalterable feelings of friendship and regard," which were unquestionably sincere.

The student of nineteenth-century thought will welcome the *Letters* for many utterances—the more significant because often unstudied—concerning the great politico-philosophical currents that ran parallel with much of Mill's life. In 1831 it was "the approaching downfall of the Peers or that of the Church," with the possibility that "in six months a national convention" will be sitting in London. In the face of such expectations, "literature is suspended; men neither read nor write"; and "the writing, buying and reading of books has come to an end in France as well as here." A little later: "Intelligence and knowledge are less valued just now, except for purposes of money-making, than at any period since the Norman Conquest, or possibly since the invasion of the Romans." Carlyle's reviews, at first "such consummate nonsense," soon afford "more edification and more comfort than from all else that I have read for years past." Wordsworth is "the best talker I ever heard." Southey is "a man of gentle feelings and bitter opinions." The death of Goethe was "the extinction of the greatest man then living in Europe." It was almost coincident with the passing of Cuvier and of Bentham. These were "the three greatest men in [the world] in their several departments." Alison is "quite inconceivably stupid and twaddling." The *Edinburgh* is distinguished by Macauley's "ignorance of the subject and assumption of knowledge." Grote is "a man of good, but not first-rate intellect"; and Emerson, introduced in a colorless note to Carlyle, at d'Eichtal's suggestion, is not "a very hopeful subject." The *Times* is "the meanest, most malicious, and most hypocritical among our very low newspaper press." Disraeli's *Sybil* cannot be "received as testimony, or supposed to be anything but a commonplace story." Fichte's work is "a fanciful theory to account for imaginary facts." In 1867 John Morley is pronounced "one of our best and most rising periodical

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writers on serious subjects." Lord Wellesley is "that most plausible and successful of political humbugs." The American Civil War is "the lawless rebellion of the Southern Americans in defence of an institution which is the sum of all lawlessness, as Wesley said it was of all villainy." In 1866, Herbert Spencer's is "the rising philosophical name at the present, and will probably stand very high ten years hence."

It is however with the third aspect of these volumes, their usefulness in tracing the progress of English economic thought in the nineteenth century, that political economists will be primarily concerned.

By 1829, the date of the first letter here published, John Stuart Mill the economist was already an old young man. He had read everything in sight, and he had digested all that he had read. He had broken more than one lance in defence of economic orthodoxy, and his opinions, represented approximately by the successive editions of his father's *Elements of Political Economy*, had attained definite form. Here he had paused. A contribution to the *Examiner* "now and then on some insulated question of political economy," kept his hand in touch. But the time had "not yet come when a calm and impartial person can intermeddle with advantage on the questions and contests of the day"; and if there was any body of knowledge which Mill deemed himself capable of promoting, it was not political economy but "the science of science itself, the science of investigation—of method."

With the renewal of his earlier interests, which resulted in the writing of the *Unsettled Questions* (destined to remain unpublished until 1844), Mill's *Autobiography* had already made us familiar. But here we have for the first time, in a letter to John Stirling, October 22, 1831, the interesting circumstances that induced the composition:

> I have just put the finishing hand to my part of a work on Political Economy, which Graham and I are writing jointly; our object is to clear up some points which have been left doubtful, to correct some which we consider to be wrong, and to show what the science is and how it should be studied. I have written five essays—four on detached questions and one on the science itself. Graham is to write five more on the same subjects; we are then to compare notes, throw our ideas into a common stock, talk over all disputed points till we agree (which, between us two, we know by experience to be by no means an indefinite postponement), and then one of us is to write a book out of the materials. Graham is to add a sixth essay on a very important part of the subject which is above my reach, and which I am only to criticise when it is done. I am now resting upon my oars.

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It is not clear whether Graham ever fulfilled his engagement; but another letter to Stirling, dated May, 1844, throws light upon the long delay in issue: "I have also been able to get published some Political Economy essays, written fourteen years ago. This is one effect of the success of the 'Logic.'" Even as late as 1856 Mill thought kindly enough of the volume to send a copy to Constantino Baer as embodying his views upon the relation of economic science and practice.

For the crucial years that followed the writing of the *Unsettled Questions* there is some graphic evidence. First there was a reaction from "gigmanity." Practical Toryism had become "essentially incompatible with any large and generous aspirations." Assured of the safety of a few dozens of persons, "to be missionaries of the great truth in which alone there is any well-being for mankind individually," Mill cared not "though a revolution were to exterminate every person in Great Britain and Ireland who has £500 a year."

Then followed "that period of *recovery* after the petrifaction of a narrow philosophy, in which one feels *quite sure* of scarcely anything respecting Truth, except that she is many-sided." Mill could protest as to McCulloch's hair-splitting distinction between wages and profits, and he could threaten Stirling to "scrape together the means of paying my passage to St. Vincent's and see whether you will employ me to teach your niggers political economy"; but deeper forces were stirring. In 1834 he resented any association with "the benevolentiary soup-kitchen school." Economic *laissez faire*, like political fatalism, was an outworn creed: "If you can do nothing for that society which has hitherto made nobody the happier unless it be yourselves, the rest of mankind must try what they can do to improve their own lot without your assistance, and then, perhaps, you may not like their manner of proceeding."

Saint-Simonism was the "gleam of light through the darkness." In some form or other, suggested by experience, its social organization was likely to be "the final and permanent condition of the human race." "I watch the experiment," he wrote to d'Eichthal, "and watch it with all the solicitude and anxiety of one whose hopes of the very rapid and early improvement of human society are wrapt up in its success." Even when disillusionment had come, the confession was reluctant: "The Saint-Simonians have done so much good that one regrets they were not capable of doing more."

The first intimation of the *Principles of Political Economy* is given in May, 1844, hard upon the success of the *Logic* and the publisher's acceptance of the *Unsettled Questions*: "I think my next book will be

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a systematic treatise on Political Economy, for none of the existing ones are at all up to the present state of speculation." Of greater interest is his own estimate of the purpose of the work, addressed to William Connor a year after its appearance.

> The progress of events and of opinion has left such political economists as those whose dicta you relate, very far behind, and their authority will soon stand as low as it deserves. My object in writing a treatise on Political Economy was to rescue from the hands of such people the truths they misapply, and by combining these with other truths to which they are strangers, to deduce conclusions capable of being of some use to the progress of mankind.

After 1850 the interest of the *Letters* to the political economist is as much in Mill's incidental expressions of economic import as in his formal activities and opinions. The poems of "the Corn Law Rhymer," Reuben Elliott, "will go down to posterity as one of the principal memorials of this age." Harriet Martineau is "a mere tyro" in political economy, who "reduces the *laissez faire* system to absurdity as far as the *principle* goes, by merely carrying it out to all its consequences." Fourier is "a sort of Robert Owen," under whose system man is to acquire absolute power over the laws of physical nature, including among other happy results the transmutation of the sea into lemonade. Grote was "universally beloved for his extreme goodness, his simplicity, uprightness and gentleness; resembling Ricardo in that particular, though a far inferior man to him in powers of intellect." In 1848, the socialists are "the greatest element of improvement in the present state of mankind." Newman's *Political Economy* is "but a poor book." In 1852, one of the most difficult questions which one can put either to himself or to others is "how to teach social science to the uneducated, when those who are called the educated have not learnt it." Professor Green of Poona is commended for "just appreciation of the great teachers of political economy, particularly Ricardo." John Black "changed the opinion of some of the leading political economists, particularly my father's, respecting Poor Laws, by the articles he wrote in the *Chronicle* in favor of a Poor Law for Ireland." In 1858: "There is a Professorship of Political Economy at University College, but I believe there are hardly ever any pupils"—this to William Newmarch, *à propos* of founding a professorship at King's College in honor of Tooke. Cherbuliez's *Précis* is "l'un des meilleurs ouvrages qui aient encore paru sur l'Economie Politique," and Courcelle-Seneuil's work on political econ-

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omy seemed "very sound and sensible." Cobden was "perhaps the most perfectly honest man among all English politicians of his time and of anything like his celebrity, for he meant every word that he said." Rau's works are "the part with which I am best acquainted of the German writers on political economy, in which, as you justly surmise, I am not by any means well read." John Ramsay McCulloch is "both prejudiced and inaccurate. I never place any confidence in the first edition of any of his books; but as the plan of most of them is good, people generally supply him with information which enables him to improve them very much in the second."

There is an easy description for Thornton of peasant proprietorship in the Avignon district. Of considerable doctrinal importance is an acknowledgment to Cairnes "for the sifting which you have given to my review of Thornton." There is also a significant examination paper on political economy drawn up by Mill in response to a request from Miss Davis, of the College, Hitchin, that he should examine her pupils in that subject. Beyond this, there are interesting letters on convict labor, land nationalization, indirect taxation, socialism, the working classes, trade-unionism, taxation of capital and gold production. Coöperative production is associated with woman's suffrage as "the two great changes that will regenerate society." Misuse by partisan protectionists in the United States, New South Wales, Australia and New Zealand of Mill's qualified approval of protection to infant industries leads to complete recantation even of this concession, and to a denunciation of the American tariff, quite in the modern spirit, as "an organized system of pillage of the many by the few." In 1869 Mill has still "a good deal to read and study before I next revise my 'Political Economy' for another edition." Even as late as 1872, the year before his death, he is discussing with Cairnes the theory of value, as to which "our difference is merely verbal"; whereas property taxation and trust investments are the "two questions connected with the application of Political Economy on which I should much like to compare notes with you."

The biographical interest of the *Letters* is enhanced by an important note on Mill's private life, contributed by Miss Helen Taylor. It is a brief in defence of Mill's conduct to his own family and to his friend, John Taylor. Even if this plea, written with the sympathy and knowledge of a devoted kinsman, fails to dispel the reader's doubt, it at least emphasizes new or neglected aspects of what is perhaps after all an insoluble problem.

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Some mention has already been made of Mr. Elliot's notable editorial introduction. In discrimination and breadth it seems to me better than anything that has heretofore been written upon Mill, and it leaves no doubt in the reader's mind as to the source from which a future definitive biography may be expected. In the matter of annotation, there has apparently been wavering intention between entire omission and reasonable apparatus, with the result that the infrequent notes are by no means distributed with respect to the largest occasion. The grouping of the letters into chronological chapters is convenient, and the index seems to be full and carefully prepared. Several hitherto unpublished portraits of the Mills and of the Taylors and a facsimile reproduction of the remarkable "pre-marriage statement" add to the attractiveness of the volumes.

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REVIEWS

Socialism and the Social Movement. By WERNER SOMBART. Translated from the sixth edition by M. EPSTEIN. London, J. M. Dent and Company; New York, E. P. Dutton and Company; 1909. —xvi, 319 pp.

Das Lebenswerk von Karl Marx. By WERNER SOMBART. Jena, Gustav Fischer, 1909.—59 pp.

Karl Marx, His Life and Work. By JOHN SPARGO. New York, B. W. Huebsch, 1910.—359 pp.

The literature on Marx and Marxism is growing from day to day. In recent publications on this subject, or at least in the more important of them, the collapse of scientific socialism and the gradual transition from revolutionary socialism to reformism are more or less clearly reflected. Perhaps the most striking example of this transition is to be found in the variations in the successive editions of Sombart's *Socialism*. In the first edition, the English translation of which appeared in 1902, the socialist movement was described from a strictly Marxian point of view. The book opened with the statement: "When Marx began the *Communist Manifesto* with the well-known words: 'The history of all society thus far is the history of class strife,' he uttered, in my opinion, one of the greatest truths that fill our century." Again: "The movements of different lands approach more and more to a unanimity by resting upon the leading thoughts of the Marxian programme" (pages 136–137). From beginning to end the little book was a brilliant exposition and glorification of Marxian socialism. But it so happened that as the book was being written the untenability of the Marxian theories was becoming only too evident to the abler men among the socialists themselves. Bernstein's articles had already appeared in the *Neue Zeit*, and any really thoughtful man could foresee the complete collapse of Marxism. In the fifth German edition, published in 1905, Sombart gave the public a really new book, written from a different point of view. It contained a long critical chapter on the various doctrines of Marx, repeating in the main the criticisms of Bernstein. In the preface to this edition the reader will find the statement: "My fundamental con-

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jon of the nature of socialism and the social movement is today the same as it was ten years ago. . . . I still see in Marx the author of the self-evident and only possible theory of the proletarian-socialist movement." The book, however, denied what the preface asserted, and in the sixth edition, here under review, this passage has disappeared. The author now writes: "The attempts of theoretical speculators to free socialism from the Marxian system found support in the camps of the practical socialists. In the long run that system was more of a hindrance than a help to the forward march of the social movement" (page 90). And in a new chapter on revolutionary syndicalism we find the interesting admission:

> As a matter of fact, the syndicalist ideas are wrecked on the Marxian scheme. It is not good to put new wine into old bottles, and it is not possible to formulate an effective social theory for the twentieth century by taking over from an older system theories of value, of productivity, of the state, of class formation and class war, of revolution and much besides [page 127].

This last English edition of Sombart's book will be found useful; it is considerably better than the English books on modern socialism.

Sombart's recent pamphlet on Marx is a sketchy bit of work. In it he affects the artistic mood. He tells us that "the specifically artistic *valeurs* which set the *œuvre* of Marx so high above all ordinary standards" cannot be fully expressed in words. They must be sympathetically experienced—"they must be felt, viewed, tasted" (page 57). Still, this booklet brings fresh evidence that Sombart understands Marx, and it contains correct estimates of the Marxian theories. A passage which may be especially commended to the notice of American economists runs as follows:

> Understand that it is precisely in the rejection of all ethical *raisonnements* that the peculiar and individual quality of Marx's thinking lies, and that Marx particularly prided himself on the fact that he did not establish socialism with an appeal to "eternal justice" (at which Engels jeers) but with proof of a natural course of events, presenting it not as an "ought" but as a "must"; and that, accordingly, in this coherent body of thought a doctrine of value that should face towards ethics (*ethisch orientirte*) would be sheer nonsense [page 24].

Sombart's recent contributions to the history and theory of socialism, interesting as they are, are less important than Spargo's *Karl Marx*. This is the first biography of Marx, and it is a conscientious and useful book. It is a labor of love in every sense of the word, and it should

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be read by every economist. But since the reviewer has to be a critic, one must record some of the faults of this honest piece of work.

It is not as easy to write a good biography as to construct a theoretical treatise. The biographer who has to deal with a theorist must understand the theory, but he must also know his man. An intimate knowledge of the man will help him to understand the inconsistencies of the theory. Marx, more than most men, needs a great artist as a biographer, and Mr. Spargo is not an artist but an apologist.

Marx was a revolutionary. To see him as he was, one must see him on the battlefields of the European revolution, spread over a continent, extended over forty years. Marxism, as a theory, collapsed and was buried under the wreck of revolutionary socialism. What is called socialism today is a perfectly tame social reform, without a drop of blood even in its cheek, but with the phrases and war cries of the old fighters. Mr. Spargo tells us on the very first page of his preface, that "Socialism and Marxism are synonyms." He is right; but since he does not see that revolutionary socialism and Marxism are both dead, there is nothing left for him but to bring Marx down, unconsciously, to the level of the socialism of today.

If the chronological order be followed in this review, one of Mr. Spargo's first mistakes is a misconception of the rôle of Feuerbach, who is described as "harking back to the narrowest forms of the most narrow and mechanical materialism of the eighteenth century." One needs only to read the preface to Feuerbach's *Werke*, or any of his psychological essays, usually in the form of lengthy book-reviews, to gain a different view of the pioneer of modern anthropology, a science of which the eighteenth century had not the least conception.

Marx himself the biographer tones down and sugar-coats from beginning to end. He bewails the unfairness of the critics: "When they do give attention to the great vital principle of the work, these critics see in it only an appeal to passion and hatred and accuse the socialists of attempting to create strife, to set class against class" (page 110). But if the Marxian is opposed to strife and unwilling to set class against class, what is the meaning of "class consciousness" and "class struggle"?

In discussing the *Communist Manifesto* Mr. Spargo writes: "With a more rigid adherence to the 'iron law of wages' than would have been possible had it been written, say, twenty years later, when Marx's economic thought had matured, it depicts the increasing dependence and exploitation of the workers and their inevitable revolt" (page 115). This passage shows that Mr. Spargo believes in Marx, but does not

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understand him. The so-called "iron law of wages" is of a static nature; and for this reason it could never explain increasing dependence, exploitation *etc.* If Mr. Spargo will carefully peruse the second half of the first volume of *Capital*, first published in 1867 (*i. e.* twenty years after the *Communist Manifesto* was written), he will find out just how the theory of value is connected with the law of accumulation; how the law of accumulation is riveted to the law of relative surplus population and the reserve army, constituting the Marxian theory of wages; and how this theory very incisively explains the inevitable increasing dependence, exploitation *etc.* Accordingly, this theory of the very mature Marx is known as the theory of increasing misery.

But while the theory of Marx is toned down, the significance of Marx in the forties is exaggerated. "The *Manifesto* had given them [Marx and Engels] a position of great importance in the radical world; they were now the acknowledged leaders of the Communist movement" (page 151). The *Manifesto* was published in 1848; it was reissued in a second edition in 1874, after the rise and fall of the International. This circumstance alone shows how slight was the influence of the pamphlet. For two decades it had practically no influence.

The influence of Marx upon the German workingmen began only after Lassalle, with his genius for leadership, had organized them. Here begins the least attractive part of Mr. Spargo's book. It is a systematic attack on Lassalle, simply because Lassalle did not see fit to agree with Marx (pages 206, 219, 235).

Marx's inconsistencies do not greatly disturb Mr. Spargo, although he himself records some of them. On page 177 he assures us that "no man ever more consistently opposed subterranean, conspiratory methods" than Marx. On page 244, however, he tells us that "when the Terroristic Party of the People's Will (*Noradnaia Volia*) was organized in 1879 it was greeted by none more enthusiastically than by Marx, and he was often called upon to advise its leaders upon questions of policy." This terroristic party was a conspiratory organization, which after many attempts succeeded in killing Alexander II. In this case, indeed, it is not Marx but Spargo who contradicts himself; but the Russian situation led Marx himself into inconsistencies. With Marx socialism is a necessary product of capitalistic concentration, proletarization *etc.* Germany was at the beginning of an industrial era, but Russia was in a much more primitive stage of development. According to Marx's theories capitalism would have to be developed in Russia before socialism could make its appearance. But Marx, being a little impatient, refused to wait: he gave Russia a special dispensa-

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tion. Russia could introduce socialism immediately, because of its village communities, scattered and decentralized as they were! Russia could adopt all the fruits of the capitalist system "without going through the tortures connected with it." Russia in his opinion, had "one of the most convenient opportunities which history ever offered to a people, to evade all the features of the capitalist system" (page 245).

Marx's inaugural address before the International stands in a similar fundamental contradiction to the theories of his earlier *Manifesto* as well as to those of his later *Capital*. The inaugural acknowledges the steady improvement of the conditions of the working class through the Factory Acts. Mr. Spargo sees here no contradiction. All he has to say on the subject is that "there is no great essential difference between it and the *Manifesto* of 1848, except that it is more cogent" (page 267).

In spite of its mistakes, Mr. Spargo's *Karl Marx* is a very creditable book. It adds to the sum total of our knowledge about Marx. But there is room for another biography of Marx that will deal with him objectively, that will admit all his inconsistencies and make them intelligible as expressions of his politico-emotional life. Marx then may appear to us less virtuous but more alive. At the same time it must be conceded that the book is very much the sort of biography that Marx himself would probably have desired. Heine has somewhere said that he would much rather be a living dog than a dead lion. Marx, on the contrary, always had a not too subconscious desire to be a lion, and he is so presented. May we say, without disrespect, that Mr. Spargo's Marx is not so much a portrait as the work of a loyal, loving, mourning taxidermist?

VLADIMIR G. SIMKHOVITCH.

Theorie der reinen und politischen Oekonomie. By FRANZ OPPENHEIMER. Berlin, Georg Reimer, 1910.—xxvi, 738 pp.

Dr. Oppenheimer's work may be described as a system of agrarian socialism, elaborating theories which he has set forth in previous publications.[1] He attempts to expose what he considers the fallacies of bourgeois liberalism as taught by the classical political economists.

[1] Der Staat (Frankfurt am Main, 1907). Grossgrundeigenthum und die soziale Frage (Berlin, 1898). Die Siedlungsgenossenschaft *etc.* (Berlin, 1896). Bevölkerungsgesetz von T. R. Malthus: Darstellung und Kritik (Berlin, 1901). Grundgesetz der Marxschen Gesellschaftslehre: Darstellung und Kritik (Berlin, 1903).

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His style is attractive, and his theme is worked out with the accuracy of formulæ, in this respect reminding the reader of Proudhon. The popularity of the work is attested by the fact that a second edition has just been published.

The author contends that the theory of economic determinism, upon which Marxian socialism is based, is fallacious. It is the political activity rather than the economic needs of the dominant group in control of the state that determines both the nature and extent of the exploitation to which other groups are subjected. He draws a sharp distinction between what may be termed "economic labor," the product of which is freely exchanged for the product of the labor of others, and "political labor," which exists whenever labor can be enforced and whenever its products can be obtained without the return of an equivalent.

The legal exclusion from arable land of those desiring to settle upon it is the most important aspect of class domination. The legal rules and processes by which this result is obtained are based on political force. As society develops under this scheme of class domination, the exclusion of the workers from the land inevitably brings about conditions that become unbearable.

Oppenheimer endeavors to disprove the classic "primitive accumulation" theory, and to show the fallacy of any system of economics based upon this theory. Monopoly of land in estates larger than one family can cultivate creates a constantly self-recruiting mass of so-called "free laborers"—termed by Marx "the reserve army" of capitalism—which is a menace to all other laborers and constitutes the source of the modern proletariat. As long as the dominant class had power to occupy only a part of the public domain, exploitation of labor required some form of slavery. When that class gained full control of the state and of the legal machinery necessary to enforce its will, the concepts of feudal law were applied to all lands. The exploitation of the landless followed automatically. As Turgot well said: "As long as a man willing to labor can find arable land he will not work for another," because if he works for another he must give up a part of his produce to an overlord. The fact that laboring classes exist is evidence, in his opinion, not of the different qualifications of men, but of class domination, which expresses itself in each case through the political mechanism adopted and set in motion by the group in control of the state.

Dr. Oppenheimer maintains (page 260) that a class of proletarians is not an immanent but a historical category; and he contends that,

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pursuant to the principle *cessante causa cessat effectus*, a distinctive laboring class must disappear with the abolition of those legally recognized principles of ownership which permit the monopoly of land and its withdrawal from use. These principles are based upon the desire of a social class to monopolize political power in the state, and they constitute the most effective means of retaining and exercising such a monopoly. The abandonment of these legal principles and the consequent abolition of land monopoly would mean cessation of exploitation of subject groups in the state and the disappearance of all forms of surplus value. As long as private land monopoly continues to exist, all forms of production become "secondary enforced means of exploitation," throwing off surplus value for the benefit of the proprietor of land; in other words, it is not the monopoly of agricultural land alone, but of all land, that is the basis of the pathologic hypertrophy of great cities as well as the ultimate cause of all labor troubles. The monopoly value of land, enormously increasing with density of population and the advance of industrial coöperation, is the nucleus of most great masses of capital formed in modern times. Oppenheimer is opposed both to communistic socialism and to individualistic anarchism. He recognizes the ineradicable tendency of man to ownership; his only question is as to what things shall be owned.

Many an institution hallowed by constitutions and laws and by other means of justifying exploitation has had to go, and others will be abolished in the future, since only those forms of property which are the result of labor are ethically justified. There is, he asserts, an ineradicable feeling in the minds of men that all land should be free; and as the state has developed from a mechanism of mere force into a scheme of domination, more or less representative of those classes that have achieved some political power, this development must logically end in the realization of ethically justified social aspirations. The object of all social development is to liberate wealth-producers from the incubus of class monopoly and political exploitation.

Oppenheimer is essentially optimistic. A tone of political hopefulness is manifested throughout his work. He aims to reconcile economic liberalism and the continuance of competition with socialism and its ultimate hope of a state strong enough to require all effort to be given for the common good and all reward to be meted out in full to those who produce.

Whether the panacea proposed by the author—land reform—will of itself absorb "the reserve army of labor" and obliterate the evils of our present system may well be questioned. As an arsenal, however,

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of well-grouped facts and clearly stated principles of opposition to the existing régime and as a criticism of the prevalent school of economic thought, the work deserves attention.

JOHN M. GITTERMAN.

WASHINGTON, D. C.

Report of the New York City Commission on Congestion of Population. New York, Lecouver Press Company, 1911.—272 pp.

Taxation of Land Values in American Cities. By BENJAMIN C. MARSH. New York, Benjamin C. Marsh, 1911.—xv, 112 pp.

City planning—that is, the substitution of scientific organization and prudent forethought for the largely fortuitous results of real-estate speculation—is now beginning to attract the attention of students of municipal government in the United States. It is true that as yet American schemes have scarcely got beyond the blue-print stage, but the interest shown in European experiments, particularly in the admirable enterprises of German cities, is an evidence that some new phases of American municipal politics are about to be opened. The age of tinkering with petty legislative restrictions, based upon no recognition of the larger economic problems, of which urban congestion is only one, seems nearly past. At this moment we are standing between two worlds, one dead and the other apparently powerless to be born; but the recognition of the death of the old beyond hope of resurrection is itself a sign of progress. The recent awakening of interest in New York City in the problem of congestion is due in a large measure to the indefatigable efforts of Mr. Marsh, secretary of the New York state and city commissions on the Congestion and Distribution of Population.

The first of the documents before us is the result of an investigation conducted by a committee composed of members of the Board of Aldermen and private citizens of New York, appointed on May 17, 1910, by the mayor in pursuance of a resolution adopted by the Board of Aldermen. The report consists of five parts: an examination of the conditions of congestion in New York, the effects of congestion and room-overcrowding, the causes of congestion, methods of relief and prevention, and reports from sub-committees of the commission on parks, playgrounds, schools and recreation centers and buildings, and crime and delinquency. The statistical tables, deductions and recommendations are supplemented by excerpts from testimony and addresses given before the commission by distinguished specialists, among whom were

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Mr. Percy Alden, M. P., Professor Stanley Adshead, of Liverpool University, and the Hon. Robert W. Hebberd.

The commission recognizes the complexity of the causes of congestion and sums them up as follows: Poverty, concentration of factories and offices, recent consolidation of the five boroughs, intensive use of land, high price of land, lack of control over aliens and citizens, long hours of work, cost of transit and transit policy of the city, lack of a definite city plan, present system of taxation, slow development of outlying borough administration, methods of public and private charities, and immigration. Among the concrete remedies proposed by the commission are the restriction of the height and volume of buildings other than tenements, modification of the tenement-house law to encourage the construction of small tenements, stricter legislation against apartment-overcrowding, measures designed to secure better conditions of labor, measures relative to the distribution of factories, provisions relative to parks, playgrounds and recreational centers, and the reduction of the rate of taxation upon all buildings to half the rate of taxation upon all land by gradual and equal changes in each of five consecutive years. The report as a whole shows a decided advance upon the narrow views of municipal policies entertained a generation ago in the United States, but it is singularly weak in its treatment of the relation of municipal congestion to the economic system of the state and of the nation. The commission was unwilling to recommend a straight unearned-increment tax, "because they believe that the subject requires greater study and investigation than they have been able to give it and because there is a division of opinion among the members as to the expediency of such tax at present" (page 32).

Mr. Marsh's brochure is an independent publication, which has doubtless grown out of his experience upon the Congestion Commission. It is frankly a plea for a heavy land tax, which he regards as "the next step in exterminating poverty." So far as the philosophy of the land tax is concerned, the volume contains nothing that is new. It is designed as a piece of propaganda, and it will be all the more effective because of the extent to which the author deals with actual municipal conditions. It is an ingenious and forceful statement of the case for the heavy land-tax policy in municipalities—a policy which is steadily gaining adherents among persons who do not expect it to usher in the millennium which Henry George prophesied. To the author himself land taxation is but a part of a larger social program.

C. A. B.

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The Alien Problem and its Remedy. By M. J. LANDA. London, P. S. King and Son, 1911.—xv, 327 pp.

Mr. Landa's little handbook is written from the point of view of frank opposition to the legislation intended to exclude certain classes of aliens from Great Britain. Mr. Landa shows that the Aliens Act of 1905 was passed under a misapprehension both of the volume of immigration into England and Scotland and of its effects in the matters of over-crowding and depression of wages in the sweated trades. The accusations usually brought against alien immigrants—that they form a disproportionate number of paupers in receipt of relief, that they are more insanitary than the British in their way of living, that they are guilty of crimes of violence to a greater degree than the indigenous population, so that the alien quarters in large towns are dangerous on account of the preponderance of the criminal element—all these accusations are refuted by figures and by evidence gathered from poor-law guardians, city missionaries, records of police courts, charitable associations and other agencies. The only aliens whom Mr. Landa is inclined to consider troublesome are Americans. Considering the small number of American immigrants into Great Britain, it is somewhat surprising to find that there were in March, 1910, 513 Americans in receipt of poor-law relief. It is equally surprising to learn that of 677 alien vagrants—or, as we should call them, tramps—no less than 250 were Americans.

One great defect of the British law, in Mr. Landa's opinion, is that it does not exclude alien workmen imported as strike-breakers. The first importation of this kind was in 1894, when Letts and Poles were brought into Lothian to break a strike among Scottish ironworkers. Mr. Landa takes occasion to commend American legislation in this respect, and points out that when, in 1906, an amending act was passed by the House of Commons to prevent such importations of workmen, it was thrown out by the House of Lords.

English alien-immigration legislation, as it now stands, is condemned by Mr. Landa as mischievous, badly and unevenly administered, and calculated to exclude chiefly refugees from political oppression. Probably the most useful part of Mr. Landa's book is that devoted to the new industries introduced by recent waves of alien immigration, wherein he shows how little these non-imported immigrants have come into competition with British labor.

A. G. PORRITT.

HARTFORD, CONNECTICUT.

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Economic Annals of the Nineteenth Century, 1801–1820. By WILLIAM SMART. London, Macmillan and Company, 1910.—xxxv, 778 pp.

By the publication of this first volume of his *Economic Annals* Professor Smart has rendered a valuable service to students of economics. The period covered is perhaps the most important in English economic history. In these twenty years the results of the industrial revolution first became manifest. The effects of the issue of an irredeemable paper currency were demonstrated. The principle of diminishing returns in agriculture was clearly formulated, and the theory of rent suggested by it was expounded. The corn-law controversy was begun and led to that breach between the agricultural and the manufacturing interests which prepared the way for the ultimate triumph of free trade. The attempt to regulate wages and apprenticeship by law was formally abandoned. The first factory acts were passed. Lastly, important progress was made in both the practice and theory of taxation. The author does not attempt to deal exhaustively with any one of these topics; but his review of the debates in Parliament, of the reports of commissions and committees and of other contemporary sources of information throws much-needed light on all of them.

As is explained in the preface, the book is not a complete history but exactly what the title indicates, "annals" of the period. Beginning with a description of the position of the United Kingdom at the end of the eighteenth century, it reviews in successive chapters (one or more for each year) the course of events and of public opinion from 1801 to 1820. The amount of space devoted to each topic appears to have been determined chiefly by the amount of attention it received in the parliamentary debates, Hansard being, as the author explains, the source from which he has drawn the greater part of his material. This leads him to give more attention to the progress of the Napoleonic wars than is perhaps justified in an economic history of England. On the other hand it has the advantage of creating in the mind of the reader the illusion of actually participating in the events that are described and of sharing in the doubts and fears that go far to explain the governmental policies of the time.

It would be out of the question to do justice in a review to more than a single portion of a book so full of detailed information. As fairly representative of the author's method I may take the chapters dealing with the corn-law controversy. This first comes to the centre of the stage in 1804, when the new corn law was passed. In devoting

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a chapter to this important legislation, the author is careful at the outset to give the reader a brief but comprehensive review of the governmental policies in reference to trade in grain that led up to it. No important detail touching legislation, prices or the volume of imports and exports is omitted. In discussing the act itself, he makes it clear that its purpose was to protect the agricultural interests from the demoralizing effects of abnormally low prices. The telling argument in favor of the measure was thus that of vested interests, rather than of protection for the sake of a developing industry or to maintain high wages.

The corn-law question received little attention during the following years, chiefly because war acted as a protective barrier to importation and English agriculture was stimulated by abnormally high prices without any governmental interference. In 1813, however, the happier turn of events on the Continent caused anxious thought in Parliament as to the results for English agriculture of the return of peace. Chapter xx, "The Coming of the Corn Laws," describes the appointment of the select committee "to enquire into the Corn Trade of the United Kingdom" in 1813; summarizes its recommendations and the able, if fallacious, speech of Sir Henry Parnell, its chairman, in their support; and explains why action was deferred until another session of Parliament.

Chapter xxii, "The Battle of the Corn Laws," takes up the story for 1814. The great fall in the price of wheat is described and its cause explained, and the legislative proposals of the session and their reception are clearly stated. The summary of the speeches for and against the policy of restriction brings out sharply, first, the very general opinion in Parliament that the critical situation of English agriculture called for some sort of legislative remedy and, secondly, the combination of "lip-service paid to free trade and defence of protection almost entirely on the ground of vested interests" that was characteristic of the period.

Chapter xxiv, "The Triumph of the Corn Laws," concludes the story by describing the tactics and arguments by which the act of 1815, prohibiting the importation of wheat, when the English price was below ten shillings a bushel, was finally passed, notwithstanding unprecedented demonstrations in opposition in London and the manufacturing towns. The greatest merit of this chapter is that it enables the reader to see how able men, like Malthus, could persuade themselves that Parliament, in imposing on the country famine prices for bread, was really legislating for the good of the realm. The disregard of the petitions which

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poured in from the chief centres of population also indicates eloquently how unrepresentative was the Parliament of the day. At the close of this chapter the important pamphlets of West, Malthus and Ricardo, bearing on the controversy, are briefly referred to. Here as elsewhere the author gives greater prominence to speeches made in Parliament than to arguments formulated outside, irrespective of their cogency or of their influence on public opinion.

As this brief review indicates, Professor Smart's narrative presents an account, at once comprehensive and vivid, of the protectionist controversy of the period. The *Annals* are equally satisfactory in their treatment of the other topics referred to. If it be objected that too much space is given to debates in Parliament and the often hasty reports of parliamentary committees, it may be urged in the author's defence that these are the sources of information that are least easily consulted by the busy reader and that most accurately reflect the trend of contemporary opinion. On the whole, the author's plan seems to be justified by the results. As a supplement to a course on economic history or on the development of economic theory in this period the *Annals* are invaluable. They give the information the reader wants, unobstructed by too much philosophizing on the part of the author, and the references and footnotes are sufficiently numerous to make possible the verification of important statements, without being voluminous to the point of pedantry. The one suggestion that I am tempted to make, having in mind the publication of later volumes, is that statistical appendices be added, bringing together in compact statistical tables the valuable information in regard to prices, wages, imports and exports, taxes *etc.* that are scattered through the volume. I make this suggestion with some hesitation, for there is a good index and it is possible, even without such aid as I have proposed, to extract the statistical information which the volume presents.

H. R. S.

Land Problems and National Welfare. By CHRISTOPHER TURNOR. London and New York, John Lane Company, 1911.—xii, 344 pp.

To those interested in the part played by land in the life of a nation, and especially to those who have followed, at least in outline, the fortunes of English agriculture, Mr. Turnor's book will be welcome. It bears unmistakable evidence of having been written by a man who has known agriculture and agricultural people at first hand. Moreover, the author is familiar with English politics, and he has attempted, at

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least, to interpret the political situation in terms of political economy. While every chapter of the book is interesting, it cannot be called a finished work from the scientific point of view. Some of its chapters are loosely written and contain a long series of comments on a wide range of topics. There are, however, happy exceptions; several chapters contain much information arranged in a logical, compact form.

The first chapter, "The Landowner," is one of the latter type. Written by a landowner, it contains many truths not likely to be relished by the class to which the author belongs. He might appropriately have called it "Confessions of a Landlord." He deplores the fact that landlords are not found in Parliament so frequently as formerly, and he states that they cannot stand the expense of life in London. He claims that the landowner frequently loses money, both as an investor and as a farmer: a loss of £3 or £4 per acre per annum on home farms is not unknown, while "a net loss of £1 per acre is common." "Already the majority of owners of purely rural estates of 5000 acres or thereabouts can no longer live at home unless they have an income from other sources than land" (page 16). In speaking of a large holding of his own, the author declares:

> Either I receive a very low rental for the land itself, and no interest whatever on the capital expended on the estate during the past sixty years, or I get a low rate of interest on the capital and no rent; it is a matter of one or the other, but not both [page 24].

Cattle-feeding and grass-farming are characterized as businesses which do not pay. Farmers should be helped and encouraged to buy land, and on it they should grow wheat, that they may prosper and the nation be fed. The old idea of a self-sufficient nation, with its interdependence of farmer and soldier, is strongly suggested.

Chapter ii, "The Farmer," deals with a large number of topics—production, distribution, tariff, accounting, diminishing returns—yet it leaves unsaid a great many things about the farmer himself which the American reader would be glad to know. Chapter iii, "The Rural Laborer," completes the survey of the rural classes. The author believes that the landlord, the farmer and the laborer are each less efficient than at earlier times. This unfortunate fact he attributes to the action of the government in making agriculture unprofitable and the purchase or leasing of land by poor men difficult; the disappearance of the common land being especially deplorable.

But though the condition is serious, the author does not regard it as irremediable. He asks that education be remodeled to fit the needs

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of the times; that agriculture be introduced into the rural schools, and that experiment stations and the like be fostered; "in the past, agriculture, more than any other industry, has suffered from the want of directly beneficial instruction" (page 173). Not only should agriculture be taught, but the duties of housewives should be taught to the girls. This is necessary to avert a disastrous wave of socialism, the socialists maintaining that, in the "present development of civilization, the family system has failed."

Further, the government must assist the agriculturist by establishing a protective tariff. On the continent and in America, a wise governmental policy has made agriculture prosperous. "How different is the picture presented by England—the producer left to himself to struggle as best he can against unfair dumping from all quarters of the globe" (page 199). A genuine curiosity in the way of reasoning is presented in the assertion that England's free-trade policy has fostered a class of middlemen who have a peculiar advantage in price-making. It is stated that middlemen often make 16.5 per cent and sometimes 54 or even 100 per cent profit on goods bought of the farmers. These may be large profits; but to the American who can find in his own town many instances of equally wide or wider margins charged and collected by the merchants, the causal relation of free trade to high prices will not be apparent. Yet from the proposition that the middleman is enabled through free trade to mulct the consumer is deduced the theory that a moderate tariff on foodstuffs will be paid by the middleman. At the same time the tariff will increase the profits of the agricultural classes.

Mr. Turnor has little faith that existing political parties will carry into practice any thorough-going land reform, and he advocates the organization of a "national party composed of all sound and moderate men, and opposed to them the party of extreme Radicals and Socialists" (page 302). In the final sentence of the book he expresses the conviction that what is needed is "a National party, to include all patriotic and honest politicians." If all sound, moderate, patriotic and honest men can be enlisted in a given cause, that cause will assuredly be fortunate. In addition to education and political action, the author advocates the development of coöperation in buying, selling, leasing and borrowing. Of this movement he hopes to see a great development.

Mr. Turnor deplores the loss during the past fifty years of 20,000,000 people, emigrants and their descendants, and lays the blame at the door of the Manchester School. He believes that England has still

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much unused and poorly used land, with a relatively sparse and unprosperous agricultural population. He believes it possible that the Empire may become self-sustaining, and that even England may approach this desirable position.

BENJAMIN H. HIBBARD.

IOWA STATE COLLEGE.

The Conservation of Natural Resources in the United States. By CHARLES RICHARD VAN HISE. New York, The Macmillan Company, 1910.—xiv, 413 pp.

Soil Fertility and Permanent Agriculture. By CYRIL G. HOPKINS. Boston, Ginn and Company, n. d.—xxiii, 653 pp.

"The new movement for conservation can no more be stilled than the tides which depend upon the movements of the planets, because it rests upon as fundamental a cause—severe limitation of the natural resources of the nation." Such is the reply of President Van Hise to those who ask when the wave of enthusiasm for conservation is to subside. It may well serve as a text for a review of these two books, so different in scope and method, so essentially one in purpose and conclusion. Both come from the great universities of the Middle West, and both indicate the nature of the influence that is radiating from those centers of light and leading in the democratic life of the Mississippi valley. Written, the one by the president of Wisconsin University, who is at the same time one of our foremost geologists, the other by one of our leading authorities on agriculture, they have interest alike for the economist, the statesman and the patriotic man of affairs.

President Van Hise has given us a handbook of conservation, which aims to present correlated statements covering minerals, waters, forests and soils, together with their relation to human welfare, economic life and legal arrangements, existing and desirable. While he modestly disclaims the right to speak with authority upon topics so varied, there is perhaps no one in the United States better qualified to present a comprehensive survey and discussion.

Containing the substance of twenty lectures delivered at the University, the book has kept the general form of the lecture course. It unfortunately suffers occasionally, in the matter of style, from insufficient revision; but statements of fact, we are told, have been carefully verified. In one important part of the field covered, the author is an acknowledged expert; in others, he has drawn freely on the work of the best authorities, using especially, of course, the Report of the

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National Conservation Commission. One of the most valuable things about the book is that it renders available for the ordinary reader the most important features of that report. Though the present volume is packed full of facts, it is much more than a mere encyclopedia of information. The statement of existing conditions is followed in each case by a discussion of proposed policies and a sane statement of desirable and necessary lines of action.

Even to summarize briefly the author's conclusions would require more space than is available. He opposes further sales of public coal lands, advocating a lease system and, if necessary, regulation of prices. He favors a progressive policy of public control of water power and irrigation projects, and he urges that state and nation should not only apply sound forestry methods on their own holdings but should by law make the same requirement of private owners. One distinctive merit of a comprehensive treatment of the whole field, such as President Van Hise has given us, is the clearness with which it shows the inter-relation of the various parts of the conservation problem and the necessity for a broad policy looking toward the rational use of all our natural resources.

The final chapter of the work, dealing with conservation and mankind, strikes with added emphasis the note that is sounded throughout the volume—the keynote of the conservation movement, a note which the coal monopolists and the water-power grabbers and the thick-and-thin defenders of private property rights will not hear because they do not wish to hear it, but which an awakened and enlightened public opinion will yet compel them to hear and heed—the superiority of the rights of the community and of posterity over any private rights, granted in days when economic conditions were widely different from those that exist and those that are approaching. On this point President Van Hise speaks with admirable reserve, but his voice rings clear and true. The older days of "illimitable" resources were naturally a time of intense individualism, and our natural resources were given freely to any individual or corporation that would exploit them. There was enough for all, and none was immediately injured by such a policy. But now our resources are limited, and they have passed from the government to private owners. The change of conditions requires necessarily a change of policy and ideals.

> The demand for transformation of the ideals of the individual, who has felt himself free to do with what he has as he pleases, to social responsibility, will be as great a change of heart as has ever been demanded by seer or by prophet. . . . But still the demand will be pressed in upon each

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man that he surrender his individualism so far as is necessary for the good of the race.

This is the larger message of this book, as it is the larger meaning of conservation.

To turn to Professor Hopkins's book is to take up one of those specialized studies of which President Van Hise speaks in his preface. Here we have a detailed scientific treatment of the single problem of soil fertility, with all that this means for the future of the race. Intended primarily as a practical manual for farmers and agricultural students, the book is full of facts that interest the student of general economics, provided his vision is wide enough to embrace other matters than the value problem. The art of agriculture, as Professor Hopkins points out, has ruined land, and the science of agriculture must restore it.

Beginning with a careful study of the chemistry of soil fertility, technical enough for scientific accuracy, yet simple enough to be read by the man of reasonable intelligence even if he have no special training, the book goes on to discuss the chief types of soil in the United States and then takes up the problem of maintaining permanently the potassium, nitrogen and phosphorus content of the soil and putting an end to our present exploitative farming. More than a quarter of the book is allotted to the results of the Rothamstead and other culture experiments, and the work is fortified with more than a hundred tables. It is emphatically a book to be studied, not simply read. The promulgation of teachings such as these among the progressive young farmers of the Middle West promises much for our future prosperity.

H. R. MUSSEY.
COLUMBIA UNIVERSITY.

History of the Sherman Law of the United States of America. By ALBERT H. WALKER. New York, The Equity Press, 1910.—xiii, 320 pp.

This little volume is cumbered with too much analysis and discussion of decisions to hold the interest of the layman; and yet the treatment of decisions is too condensed as well as too obviously biased to serve as a trustworthy digest for the lawyer.

The first two chapters treat of the introduction of the original draft of the Sherman Bill in Congress, the ensuing debates on the general subject of anti-trust legislation, the substitution of the form suggested by Senator Edmunds of the Senate Judiciary Committee, and the final

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passage and approval of the act in its present form. The next chapter contains an analysis of the law, section by section. Then follow half a dozen chapters reviewing in chronological order the decisions of the courts interpreting the act, and so arranged as to give a chapter to each presidential administration. The author concludes with a forecast of the Standard Oil and American Tobacco decisions, which, at the time the book went to press, had not been announced by the Supreme Court of the United States.

Over two-thirds of the space is thus devoted to the discussion of litigated cases; and this discussion is frequently misleading because of the author's unfair and unlawyerlike digests of the cases discussed and his intemperate comment. A single illustration will sufficiently indicate his methods and his tone. On pages 263 and 264, after a statement of the gist of the complaint in the well-known Meeker case, the following comment is made:

> The complaint was defective in not stating the facts which showed that the rates thus agreed to be charged by the seven railroad companies were extortionate, as compared with what fairly compensatory rates would have been. Those facts, if they had been stated in the complaint, would have shown that *the rates* agreed to be charged and charged by the seven railroad companies *were thus extortionate to the extent of at least one-half of each rate.* And those facts must have been well known to Mr. Meeker, for they have long been notorious and are undeniable. But through some error, those facts were not stated in the complaint, and therefore could not be considered by the court, when deciding the case, as it was decided upon a demurrer to the complaint.
>
> That decision was rendered on June 6, 1908, by Judge Ray, the United States District Judge for the Northern District of New York, when temporarily holding the United States Circuit Court for the Southern District of New York. Judge Ray held that "a resort to the Interstate Commerce Commission is a condition precedent to the maintenance of an action, in the Circuit Court of the United States, to recover damages solely occasioned by the payment of excessive, unjust or unreasonable rates for the transportation of interstate commerce, even when the exaction of such excessive rates was the result of a combination or conspiracy made unlawful by the Sherman anti-trust law." This decision was equivalent to holding that a Circuit Court of the United States, when entertaining an action at law for the purpose of ascertaining the amount of damage which a particular combination or conspiracy violative of the Sherman law has inflicted upon a plaintiff claiming to have been injured thereby, will not receive evidence proving the bottom facts, but will be governed entirely by whatever declaration relevant to the question may have been made by the Interstate

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Commerce Commission, and that in the absence of any such declaration no damage whatever can be recovered in any United States Circuit Court.

It does not appear that the plaintiffs in this case have ever prosecuted the case in court since that adverse decision of Judge Ray was rendered; for the published reports of the United States courts do not contain any report of any review of Judge Ray's decision. Whenever hereafter the same question arises between other parties before another judge, it is to be expected that judge will decide that Section 7 of the Sherman law does not express or imply any necessity for any resort to the Interstate Commerce Commission, as a condition precedent to the enforcement of that section by any Circuit Court of the United States, in any case where the bottom facts are found by legal evidence to require such an enforcement.

The reader will note, in the words italicized, the author's charge of extortionate rates. These rates were three in number: one of $1.55, one of $1.40 and one of $1.20. If our judicially minded author be correct they should have been reduced to 78, 70 and 60 cents respectively. What actually happened was that, after Judge Ray's decision, the very able counsel acting for Mr. Meeker adopted the course so plainly indicated by Judge Ray and presented the case to the Interstate Commerce Commission. There it was thoroughly tried, and after digesting the voluminous record of testimony that tribunal decided on June 8, 1911, that the highest rate should be reduced, not 77 but only 15 cents; that the next rate should be reduced, not 70 but only 10 cents; and that the lowest rate be reduced, not 60 but only five cents.

The sarcastic comment on Judge Ray is not only unfair to him; it also betrays Mr. Walker's ignorance of that other important federal statute, the Interstate Commerce Act, and the controlling decisions of the Supreme Court interpreting it. These decisions are binding not only upon Judge Ray but on "another judge" who may have a like question before him. The opinion of the United States Supreme Court in the Abilene Cotton Oil case made any other decision in the Meeker case than that rendered by Judge Ray quite impossible.

The treatise has altogether too much of innuendo. The motives and fidelity of public men of proved honor and integrity are impugned by oblique comment and sinister suggestion. If the author's style were captivating and his work original or inspiring we might condone his bias. The English, however, is awkward, two-thirds of the book is occupied by an incomplete and undependable digest, and the other third is of no practical utility and of little interest.

JACKSON E. REYNOLDS.

COLUMBIA UNIVERSITY.

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The Story of the American Merchant Marine. By JOHN R. SPEARS. New York, The Macmillan Company, 1910.—340 pp.

This is a sane review of the development and decline of American shipping. It is a joyful surprise to read a book by an avowed friend of the American merchant marine which is not a brief for subsidy, discriminating duties or some other plan for "restoring American supremacy of the seas" by paying a few vessels to fly the stars and stripes. Every student of our maritime history knows that the phenomenal development of our shipping in the earlier days of our history was due to the following causes: (1) the seafaring instincts and habits of the English colonists; (2) the profitableness of fishing and the ocean carrying trade generally, as compared with other enterprises; (3) the cheapness and excellence of timber suitable for shipbuilding; (4) cheapness of materials and skill in construction, which created the cheapest and best ships in the world; (5) the barrenness of the soil of New England and the lack of cheap interior communication, which turned the attention of American youth seaward; (6) the system of dividing profits, under which every man on shipboard received a share in the gains of the voyage—a system which naturally attracted intelligent, capable young men and stimulated their interest in the enterprise; (7) European wars from 1793 to 1814, which made us the only important neutral carriers. In spite of imperial decrees, orders in council and presidential embargoes, our shipping received a huge impetus from these wars. The fishing bounties, discriminating duties and tonnage taxes enacted by Congress were utterly insignificant in their effects. The fishing bounties could not keep the fisheries from declining. The discriminating duties and taxes were merely retaliatory and were speedily abandoned. The United States could not maintain a monopoly in the practice of discrimination. Mr. Spears discusses with good judgment all the above factors in the growth of our shipping. In the reviewer's opinion, however, he does not give sufficient weight to (3) and (5). On page 277 he says: "We did not gain or hold supremacy because we could build ships cheaper than they could be built elsewhere. Cheaper ships could be had in the north of Europe and in Canada. Moreover our most profitable ships were those that cost the most per ton." This is hardly a correct statement. Measured by durability and efficiency, the ships turned out by our yards were the cheapest in the world. The author is wholly right when he says in the next sentence, "In short the whole environment of the American seafaring population had evolved a ship and crew which, taken together

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as a unit, were able to give more ton-miles for a dollar than any other similar unit in the world." A very efficient and durable vessel at comparatively low initial cost had as much to do with our success as the efficiency of our sailors and officers, who were highly paid but whose services were cheap at the price paid for them.

A few astonishing statements occur. We read, for example, that piratical aggressions "were not an unmixed evil. For such conditions increased freight rates and the profits on cargoes carried on owners' account. Thus the freight rate from Boston to Barbadoes, in 1762, was 14 per ton, or four times former rates, and all because of pirates." This bit of mercantilism, which assumes that consumers exist but to feed and fatten producers, is all the more startling because the author sees so clearly that permanent prosperity in shipping depends upon the prosperity of those served and the safety and economy of the service rendered.

Mr. Spears has done well to expose the comparative futility of the much-overpraised American privateers, both in the War of the Revolution and in the War of 1812. Our histories have generally greatly exaggerated the influence of this form of warfare. In both of these wars the United States suffered more than Great Britain from the capture of merchant vessels and the interruption of trade; and the effects of privateering were not at all commensurate with the destruction of property and the suffering which it entailed.

Mr. Spears seems to think that if American shipbuilders and shipowners had shown more enterprise in accepting and improving the iron hull, marine engine and screw propeller we might have kept in the race. It seems entirely unlikely that the United States could have competed with Great Britain in constructing iron or steel steamships during the period from 1843 to 1897. England had every advantage over us: cheaper coal, cheaper iron and really cheaper labor. The development of interior communication in the United States opened up vast resources which drew all eyes landward. It became impossible to man a ship with American sailors, since more profitable adventures awaited our young men on the land. No amount of enterprise and ingenuity on the part of shipbuilders could have kept Commodore Vanderbilt at sea or could have induced Mr. Rockefeller, Mr. Harriman, Mr. Havemeyer, Mr. Carnegie, Mr. J. J. Hill or Mr. Guggenheim to take to the sea. We passed from the ocean-draying business to other more lucrative occupations. And we cannot be dragged back into the draying business, either by eloquence or by inspired arithmetic, until it shall pay as good dividends and wages as railroading, mining,

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lumbering and similar undertakings. Why should the citizens of the United States do their own oversea carting under the stars and stripes, at an average cost of $7 or $8 per ton, when they can get Englishmen, Germans, Frenchmen, Italians and Norwegians to do this work for only $3 to $4 per ton? If we need more cruisers, scouts and colliers, let us by all means build them, or, if it be cheaper to do so (which is doubtful), let us subsidize private individuals to build them for us; but in so doing, let us not deceive ourselves with any humbug of regaining the supremacy of the high seas. Mr. Spears points out, as others have pointed out before him, that ocean-going vessels are numerous, freight rates low and dividends small.

A factor of equal importance is overlooked by Mr. Spears, namely, water terminals. It will be necessary for our ports to acquire or retain ownership and control of our harbor frontage, so as to prevent monopolization by established lines and the consequent freezing-out of new lines, no matter how well equipped these may be.

ROYAL MEEKER.

PRINCETON UNIVERSITY.

The Revision and Amendment of State Constitutions. By WALTER FARLEIGH DODD. Baltimore, The Johns Hopkins Press, 1910.—xvii, 350 pp.

This is not a mere legal treatise or historical essay. There is law, as may be gathered from the fact that nearly two hundred cases are cited; and there is history, for without it the development and theory of the state constitutional convention could not be understood. But the author makes it clear that his interest lies mainly in present conditions and actual practice, as well as in the remarkable tendencies which have begun to show themselves in this time of political change. His opinions are deserving of particular consideration in view of the thorough and scholarly examination which he has made of conditions in all the states.

He believes that the amendment procedure "has in many cases become a mere farce because of the triviality and multiplicity of the questions submitted," and that "any system is wrong which expects to obtain a popular judgment upon questions which are too trivial or too local for the voters to have any real opinion upon the matters submitted to them" (page 289). Of the 472 amendments on which the people voted in the ten years ending 1908 not more than sixty were of a fundamental character. That the legislative details which are being crowded into the constitutions, partly because of distrust of the legislatures and for

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the purpose of limiting their powers, and partly for the purpose of removing impediments to legislation interposed by judicial decisions, do not interest the people is shown by the fact that the candidates received, on the average, twice as many votes as the amendments. In some cases the vote was ridiculously light. A singular commentary on what the electors have come to think of their higher law!

In view of this situation the author proposes certain specific remedies: (1) that only fundamental changes should be made by referendum; (2) that trivial changes should be made by a two-thirds vote of the legislature, supplemented by a referendum when a certain number of petitioners require it; (3) that popular control over the proposal of amendments should be extended by means of the initiative, which, in spite of defects, would have the great advantage of causing the legislature to act in obedience to popular demands; (4) that the text of measures should be distributed to voters rather than published in the newspapers and that the amendments should appear on separate ballots. He notices that the adoption of the separate ballot in Idaho had the effect of doubling the vote, though he acknowledges that the use of a mechanical device to overcome mental inertia gives no assurance of intelligent action. In discussing the publication of amendments he commends the Oregon system (adopted with slight changes by three other states), under which amendments and laws submitted by initiative and referendum are sent to all the voters with arguments *pro* and *con*. The cost of the Oregon plan has been the chief argument against it; but Louisiana, with about the same number of voters, spends more money in publishing only the text of amendments in the newspapers of the state. At the same time Professor Dodd attributes a good deal of the success of the Oregon plan to temporary conditions—to the importance of the measures which have been submitted and the novelty of the experiment.

Some harsh things are said about the courts. These strike the reader with all the more force on account of the impartial and detached spirit which the author displays. He is not using "judicial usurpation" and "popular distrust of the courts" to build up the circulation of a magazine or to advertise the opinions of a presidential candidate. A few quotations may be given.

> Where the opinion of a court happens to be opposed to a proposal it is usually not difficult to find some reason for declaring such proposal invalid [page 217].
>
> As a rule it would seem that the courts have found reason, sufficient at least for themselves, for annulling practically all constitutional amendments which they strongly desired to defeat [page 244].

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The judicial control over legislation is not in any case an unmixed blessing, because it decreases legislative efficiency and . . . has often checked for many years needed reforms which the courts have been forced to accept in the end, but the state judicial power over legislation, when employed as frequently and as irresponsibly as during the past thirty years, can hardly be considered an instrument of very great value [page 255].

The author believes that the distinction between constitutional and statutory law, on which President Lowell has said that our whole political system rests, is breaking down. It is breaking down in substance through the inclusion of so many trivial matters in the constitutions, and in form through the growing use of the same methods for the enactment of ordinary law and of constitutional amendments. Those who understand the significance of these facts and who observe the decline of interest in the study of constitutional law and the attacks which are being made upon the judiciary will be inclined to agree with Professor Dodd. He sets forth familiar phenomena systematically and makes them very impressive. No one can read his chapter on the constitutional referendum without some reflections on the future of our system of government. There have been occasions when the state constitution has meant nothing among friends, among those within the charmed circle; under the new dispensation, it appears, the constitution will have meaning for nobody. After all, that is the way Jefferson wished us to go.

The book will supersede all previous works on the same subject. It will be invaluable to teachers of politics, especially as the facts are brought down to the year 1908.

E. M. SAIT.

COLUMBIA UNIVERSITY.

The International Law and Custom of Ancient Greece and Rome. By COLEMAN PHILLIPSON. London, Macmillan and Company, 1911.—Two volumes: xxiv, 419; xvi, 421 pp.

The author is an English barrister-at-law, already known for his publications on special features of modern international usage. The present work, should it be encouragingly received, is offered as the first instalment of a treatise on the general subject from the beginnings of Europe to the present day. These facts indicate the character of the writer as an international jurist whose interests are chiefly modern. In addition to this equipment he possesses the classical scholarship necessary for the reading and interpretation of Greek and Latin texts, both epigraphic and literary, and a familiarity with the leading German,

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French and Italian, as well as English, authorities on his subject. In brief, he is remarkably well fitted for the task thus far achieved.

This work is the first comprehensive and systematic treatment of the subject in existence. It is true that Laurent devoted two volumes of his *Histoire du droit des gens et des relations internationales* to Greece and Rome; but his treatment, however attractive in style, was so inadequate and pernicious as to bring the whole subject into contempt in the eyes of modern scholars, with the result that since his time authorities in the field of international law rarely refer to Greece and Rome, unless to contrast the crudities of ancient usage with the present highly developed system. In the spirit of Laurent we have been too prone to judge ancient practice from the point of view of our own ideals, or have fallen into the error of taking exceptional cases as types of approved usage. Dr. Phillipson corrects this wrong attitude of mind by proving that the Greeks and Romans possessed an extensive body of international usages and principles of a high order of merit, though less developed and systematic than the international law of the present. In great fulness he discusses the classical conceptions of international law, the treatment of resident aliens, naturalization, extradition, embassies, treaties and confederations, arbitration, colonization, national policies, the usages of war on land and sea and many related topics.

A large part, perhaps a half, of the work is necessarily devoted to Greece; for the existence there of a group of vigorous states, approximately equal and in active relations of friendship or enmity with one another, stimulated the growth of usages applicable to these connections. Though strictly not nations, the Greek states were sovereign; and the relations between them had accordingly the same character as those between modern states. Equality generally conduced to justice, and the humane feeling for which the Greeks were distinguished among the ancients often led the more powerful states, apart from all considerations of interest, to take up arms in defence of the weak and helpless. At the same time the Greek philosophic mind created principles and ideals of international conduct. For these reasons Greece became essentially the birthplace of international law. These points the author might have emphasized even more than he has done. The exclusiveness of the city-state, however, combined with the cultivation of the ideal at the expense of the useful, prevented the Greeks from bringing these elements of law to maturity. The utilitarian genius of Rome, guided by a sense of fairness toward aliens, making good the defects of Greece, "evolved and practiced a large body of principles which

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have furnished the basis of international law for all time." If this statement is true, as the author seems abundantly to prove, international jurists ought to pay more attention to Rome than they are doing; and this liberalizing study is for the first time made practicable by the publication of the present work.

It would be easy to find fault with the details of treatment. Evidently the author takes little interest in classical history for its own sake; and this deficiency has led him into innumerable mistakes as to institutions and ideas. Though of great importance to the historian, these errors do not materially affect the author's conclusions, and hence need no further mention here. A careful revision, eliminating these secondary blemishes, would make the work an authority of the highest value, not only to the specialist in international law, but also to those who are interested in the history and the institutions of Greece and Rome.

G. W. B.

Following the Conquistadores up the Orinoco and down the Magdalena. By H. J. Mozans. New York and London, D. Appleton and Company, 1910.—xviii, 439 pp.

Following the Conquistadores along the Andes and down the Amazon. By H. J. Mozans. With an introduction by Theodore Roosevelt. New York and London, D. Appleton and Company, 1911.—xx, 542 pp.

Among the many books of travel and description dealing with the countries of Latin America, the two volumes by Dr. Mozans merit far more than a passing notice. Their author is a man of an unusual breadth of culture, and possessed withal of a kindly and sympathetic spirit that attracts the reader very much as it must have won the hearts of the people with whom he came into contact. Accurate in observation, happy in expression and deft in allusion, he has woven into his narrative a pervasive charm that holds attention to the very end.

Dr. Mozans set out with a twofold purpose. He wished to follow the routes of the early Spanish explorers and conquerors in the present republics of Venezuela, Colombia, Ecuador, Peru and Bolivia, and also to describe the lands and peoples along the way as they appeared to him and as they appeared to the "conquistadores," missionaries and men of science who had traversed the same highways or had treated the same topics. His method of recording their statements may not be altogether novel, but the skill with which he presents the

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contrasts of present and past is very gratifying. Written by a master of the Spanish language and by a scholar who is familiar with Spanish historiography, with the literature bearing upon the countries visited and with the tongues and literatures of many lands, Dr. Mozans' books have in rich measure the primary requisite of a good story or of a good sermon: they are interesting, truthful and human. In their field they surpass anything yet offered to the public.

Because of their excellent qualities in many respects it seems quite unfortunate that the volumes should be rather poorly indexed, inadequately safeguarded against misprints in the spelling of Spanish words and indifferently illustrated. In their present form the bibliographies appended are not comprehensive enough for the scholar or practically helpful enough for the general reader. So far as the text is concerned, the stylistic device of using the antique English translations of the school of Hakluyt is more a hindrance than an aid to comprehension. Moreover, despite his familiarity with the early Spanish writers, Dr. Mozans seems to be unaware that Benzoni (I, 33,76,179) was a literary impostor, that Columbus (Journal of the first voyage), not Vespucci (I, 177), was the first to mention the use of hammocks, and that the name "Hispaniola" is not a diminutive derived from "España" (I, 31), but a contraction of "Tierra española." The day has gone by when Vespucci can be credited with the discovery of Florida (I, 8,9); nor did the French at the time of their settlement there apply the name "New France" to that region alone. For the sake of making it clear to the reader that Piedrahita did not write in the nineteenth century, but in the seventeenth, it would have been preferable to cite the edition of 1688 instead of that of 1881 (I, 291). With all due sympathy for the generous enthusiasm of Dr. Mozans, opinions may well differ as to whether the experiment of Las Casas in colonization was "the greatest the world has ever known" (I, 47); whether the "Neo-Latin variety of man known as the Spanish-American" is "as distinct and as characteristic as the Anglo-American of the United States" (II, xiv); whether "the Spanish race and tongue today are surpassed in point of numbers, distribution and future promise only by the Anglo Saxon" (II, xv); and whether Gabriel Garcia Moreno was "the most brilliant statesman that South America has yet produced" (II, 107). Be it said, also, that travelers from the United States who introduce themselves by the term "Americans" are not "often mistaken for the citizens of one of the republics of our sister continent" (II, 99), and this for obvious reasons.

W. R. S.

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RECORD OF POLITICAL EVENTS

[From May 1 to November 7, 1911]

I. INTERNATIONAL RELATIONS

THE TRIPOLITAN WAR.—While general attention was centered upon the protracted negotiations between France and Germany relative to Morocco and their respective African possessions, **Italy** was maturing plans for transforming her economic sphere of influence in Tripoli into a political protectorate. This ambition, which had been foreshadowed as early as the Congress of Berlin in 1878 and had later been recognized in the Franco-Italian Convention, had long been thwarted by the Turkish sultan as the suzerain of Tripoli; and the accession of the patriotic Young Turk party to power in the Ottoman Empire had, in the past few years, strengthened the opposition to the extension of Italian influence. The first open intimation of impending trouble was the announcement telegraphed from Constantinople on September 24 that Italian vessels were hurriedly leaving Ottoman ports on instructions from the Italian consulates. The Turkish government at once asked for an explanation, and on the 28th the Italian government presented the Porte with an ultimatum. The note recapitulated the Italian complaints of Turkish disorder and neglect and stated that Italy had decided upon the military occupation of Tripoli and Cyrenaica, and that subsequent agreements would be made to define the situation arising from the military occupation; the Porte was requested to give orders which would permit of the occupation being effected without difficulty; and failing a reply within twenty-four hours Italy would at once proceed to forceful occupation. The Turkish government appealed to the Powers and hastily withdrew its fleet from Beirut to Constantinople. The time laid down in the ultimatum having expired, a state of **war between Italy and Turkey** was proclaimed on the afternoon of September 29.—An Italian squadron under the duke of the Abruzzi proceeded to sweep the lower Adriatic clear of Turkish vessels that might be a menace to Italian shipping. After sinking three torpedo boats, it attacked Preveza, a fortified port on the west coast of Turkey, and blockaded it in order to prevent the escape of other Turkish torpedo boats. To reassure the Powers, and particularly Austria-Hungary, the Italian government categorically disclaimed any intention of landing troops in any part of the Ottoman Empire except Tripoli and Cyrenaica. Meanwhile, a second Italian squadron under Admiral Aubry blockaded the port of Tripoli. The surrender of the city being refused, a bombardment was begun on October 3 and continued the next day, while Munir Pasha, the Turkish commander, was withdrawing his available army of about 5000 men to the interior of the country. On October 4 Italian

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marines landed, occupied the defences and hoisted the Italian flag. Admiral Borea Ricci d'Olmo, who was appointed first Italian governor of Tripoli, landed on October 7, and, while decreeing the abolition of slavery, promised to pursue a policy of conciliation toward the natives. About 35,000 Italian troops were transported to Tripoli during October; but the strict censorship of all news and the conflicting and doubtless exaggerated stories emanating from Constantinople and Rome made it practically impossible to state at the close of the month precisely what had been accomplished.—The great majority of the European press condemned the act of the Italian government in forcing a war as impolitic and high-handed. It was generally believed that eventually the Ottoman government would renounce its sovereignty over Tripoli for a financial consideration.

MOROCCO.—Acute relations between **France** and **Germany** arising from the Moroccan situation threatened the peace of Europe during the summer months and drew attention to the general rivalry in the partition of Africa. In May, both France and **Spain**, as the mandatories of the Algeciras Convention, were extending their military lines with the avowed purpose of putting an end to civil wars and tribal brigandage. A Spanish column on May 13 occupied Zain on the left bank of the Muluya not far from Zeluan; and on June 8, a Spanish force was despatched to Alcazar, twenty miles inland from Larache. Meanwhile, the French relief column (see last RECORD, page 352) arrived at Fez, having met with very slight resistance, and proceeded to garrison the town. The solemn assurances of the French and Spanish governments that these expeditions and occupations were only temporary and without political significance were not taken by the German government at face value; and early in July Germany sent a warship to Agadir, a southern port on the Atlantic, ostensibly to safeguard the mining property of the Mannesmann Brothers, an important steel and iron manufacturing firm, with a significant hint that the German marines might be withdrawn from Agadir as soon as conditions were sufficiently settled to admit of French withdrawal from Fez. The gravity of the situation was thoroughly felt throughout Europe, and military preparations were hurried both in Germany and in France. A strong statement of Mr. Asquith, to the effect that **Great Britain's** treaty obligations with France and her own interests in Morocco would make her a party to any new settlement, did a good deal to increase French confidence and reduce the danger of war. On July 8, conversations were begun at Berlin between Herr von Kiderlen-Wächter, the German foreign secretary, and M. Jules Cambon, the French ambassador, with a view to a final settlement of the whole Moroccan question. It soon became known that Germany was willing to renounce all political control of Morocco in favor of France on condition of securing colonial compensations elsewhere, and that France was willing to make such cessions in the Congo. The first part of the proposed new convention—that relating to Morocco—was practically complete on October 11, and its main points, as far as known,

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were: (1) acknowledgment by Germany of a future French protectorate in Morocco; (2) arrangements under this protectorate for the administration of justice and the future status of the native protégés of the Powers; (3) provisions securing for Germany economic equality with France; (4) the submission of the agreement to the signatories of the Algeciras Treaty for their approval, both governments pledging themselves to use their best endeavors to obtain ratification. The second part of the negotiations, concerning colonial compensations for Germany, was opened in October.—The arrest of the French consular agent at Alcazar by Spanish soldiers called forth an apology from the Spanish government together with the reiteration of intent to work in perfect harmony with France. Spain, however, took advantage of the Franco-German negotiations to strengthen her own pretensions in Morocco. On August 23, a merchant vessel was despatched from Teneriffe for Santa Cruz de Mar Pequena, fifty-eight miles south of Agadir, to be followed by a military expedition, in order to enforce a provision of the treaty of Tetuan of 1860 and of the special agreement of November, 1910. On October 7, after a ten-hours' battle, Spanish troops from Melilla occupied the market town of Zebuya.

GENERAL EUROPEAN RELATIONS.—Much uneasiness prevailed in the **Balkan** states and in Greece on account of the Tripolitan War (see *supra*) and the Albanian revolt (see *infra*, p. 769). According to current belief, Germany and Austria-Hungary were exerting their influence to maintain the *status quo* in European Turkey.—In view of the concentration of several thousand Albanian refugees in Montenegro and the menacing language of the Turkish press, the Russian government successfully intervened in July to procure a settlement of the difficulties between Turkey and Montenegro. The Albanians were allowed to return home under mutual guarantees of peace.—The arrival of a **Rumanian** minister at Athens in June marked the end of the rupture which occurred in 1905, when the **Greek** minister at Bukarest was withdrawn in consequence of Rumanian retaliation for outrages by Greek bands in Macedonia.—The Porte in September received a communication from the four protecting Powers of **Crete** to the effect that they had decided neither to prolong the mandate of M. Zaimis as high commissioner of the island nor to fill the post on his retirement, but they did not consider the moment favorable for a final settlement of the Cretan question. The ambiguous statement was favorably received in Constantinople, Athens and Crete.—The visit of the Emperor William to England in May in order to attend the unveiling of the memorial to Queen Victoria afforded an opportunity for expressions of warm friendship between **Great Britain** and **Germany**; but the publication by the *Neue Freie Presse* in August of a spicy interview with "an English diplomat," who branded German diplomacy as blackmail, and the strong support given by Great Britain to France in the Moroccan negotiations did not materially improve the relations between these naval and commercial rivals.—The **Portuguese** government protested vigorously in June against

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Portuguese monarchists being harbored within the Spanish frontier. Spain promised to procure their expulsion. The Portuguese Republic was officially recognized by the United States on June 19, by France on August 24, and on September 11 by Great Britain, Spain, Germany, Italy and Austria-Hungary.—By the terms of a commercial treaty signed by Portugal and Italy in May, the former agreed to impose minimum tariffs on Italian marsala and vermouth, and the latter on port and madeira wines.—The visit of President Fallières to Brussels in May was said to foreshadow a new commercial treaty between France and Belgium.

ASIATIC RELATIONS.—The **British-Japanese** alliance was renewed on July 13 for a term of ten years. The most important modification, the necessity for which arose from the American arbitration treaty (see *infra*), was the insertion of a new clause: "Should either high contracting power conclude a treaty of general arbitration with a third party, it is agreed that nothing in this agreement shall entail upon such contracting power an obligation to go to war with the power with whom such treaty of arbitration is in force."—On June 20, news came that the **Russian** government had accepted the **Japanese** proposals for the settlement of all outstanding claims of Russian subjects arising out of the war, and that the vexed question of the three hospital ships captured by Japan had been adjusted. The emperor of Japan informed the tsar on August 28 that the vessel Angara would be presented to Russia as evidence of "unalterable friendship."—A new commercial and navigation agreement between Japan and France was signed at Paris on August 19 by M. de Selves, foreign minister, and Baron Kurino, the Japanese ambassador. Under the convention, France agreed to apply her minimum tariff to certain Japanese products, especially to silks and lacquer goods. Japan, for her part, conceded tariff reductions on fifteen main French exports, including wines, perfumes, motor-cars and various woolen manufactures.—The opium agreement between **China** and **Great Britain** was signed at Pekin on May 8, the former undertaking to diminish annually during the ensuing seven years the production of native opium in the same proportion by which the annual export from India is diminished, and the latter guaranteeing that the export of opium from India shall cease in less than seven years.—Important contracts, formally made on May 20, provided for a foreign loan of fifty million dollars and the construction of several railway lines in China: (1) under a British engineer, of a line 600 miles long from Wuchang, the capital of Hupei province, through Changsha, the capital of Hunan, to a junction with the Kwantung railway; (2) under a German engineer, of a line 400 miles long in Hupei from Ichang on the Yangtsze to Kuangshui on the Pekin-Hankau line; (3) under an American engineer, of a line 200 miles in length in Hupei from Ichang to the border of Szechuan province.—By an important **Persian** agreement, which was signed at St. Petersburg on August 19, the Russian government pledged itself to begin the railway line from Teheran to Khanikin within two years of the completion of the German Bagdad railway from

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Sadidie to Khanikin.—The **Turco-Persian** boundary commission announced in May that it would submit all disputed points to the Hague Tribunal.

AMERICAN RELATIONS.—General arbitration treaties between the **United States** on the one side and **Great Britain** and **France** on the other were signed at Washington on August 2 (see last RECORD, p. 350). The scope of existing agreements is expanded by including questions of vital interest and national honor. All disputes which are "justiciable" and which cannot be settled by diplomacy are to be submitted to arbitration before the Hague Tribunal or some other body. Upon the request of either government any controversy may be referred to a joint high commission, which shall have power to make recommendations for its settlement, the commission to be composed of three nationals from each of the two states or such persons as may be chosen in each case by an exchange of notes. The reports of the commission shall in no way have the character of an arbitral award; if, however, all but one of the members agree that the dispute is justiciable, it shall be referred to arbitration. In order to afford an opportunity for diplomatic adjustment the commission, at the request of either government, shall delay its findings for one year. On August 15 the Senate Committee on Foreign Relations, in reporting these treaties, characterized them as "breeders of war and not of peace," asserting that, in their present shape, they "would rouse a series of disputes, now happily and entirely at rest, into malign and dangerous activity." The committee proposed an amendment which would leave each country free to determine whether or not a controversy should be subject to arbitration. No action had been taken upon the treaties when Congress adjourned.—In August **Germany** announced her readiness to negotiate a similar treaty; and it is understood at Washington that the disposition of **Japan** is equally favorable.—On July 6 a treaty was signed between the United States and Great Britain under which certain pecuniary claims, some of them antedating the war of 1812, will be submitted to arbitration. The treaty was ratified by the United States Senate on July 19.—The dispute between the United States and **Germany** respecting the law regulating potash syndicates (see RECORD of December, 1910, p. 728) has been set at rest for the present by an agreement as to prices and taxes arranged in a conference at Hamburg on May 17.—The announcement was made at Washington late in May that **Russia** would henceforth accord more liberal treatment to Jewish travelers. In June, at the request of the American ambassador, Jewish buyers were admitted to the fur-trade at Tyumen.—On July 7 the United States, Great Britain, Japan and Russia entered into a treaty which prohibits for fifteen years the hunting of otters on the high seas and **pelagic sealing** in the north Pacific and in the Behring, Okhotsk, Kamchatka and Japan seas. Provision is made for the maintenance of a patrol. The United States Senate ratified the treaty on July 24.—The **reciprocal trade** agreement between the United States and **Canada** failed to secure the approval of the Canadian electorate on September 21; under

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the legislation of the American Congress, however, the wood-pulp and paper schedule of the agreement went into force immediately without regard to the action of Canada (see last RECORD, p. 349, and *infra*, pp. 742, 760).—On May 12 Secretary of State Knox authorized the American ambassador to deny most positively "all foolish stories" of intervention in **Mexico**, the United States not being concerned with Mexico's internal political affairs. Meanwhile President Diaz had set free three Americans who had been imprisoned for two months on the charge of aiding the insurgents (see last RECORD, p. 349). The Mexican newspapers expressed some resentment in June because no one was punished for the lynching of a Mexican boy by a mob at Thorndale, Texas. More than five hundred claims against Mexico for damages during the revolution have been filed with the State Department at Washington.—Early in June the United States negotiated a convention with **Nicaragua** for the purpose of adjusting foreign claims against the latter, arranging a loan of $15,000,000 and hypothecating a certain part of the customs revenues to secure the loan. The terms are similar to those of the Honduran convention signed earlier in the year (see last RECORD, p. 350) and represent the policy of Secretary Knox in checking the turbulence of the Central American states. The United States Senate, though urged by President Taft, has ratified neither convention.—On July 5 the United States, Great Britain, France, Germany and Italy submitted a joint note to **Haiti** insisting that the long-standing claims of their citizens be settled within three months or submitted to arbitration.—In July the king of Great Britain announced his award in the arbitration of the Alsop claim (see RECORD of December, 1910, p. 728). **Chile** is required to pay the American claimants $935,000. Treaties of general arbitration were signed in July between **Argentina** and **Ecuador** and between Argentina and **Venezuela**. A similar treaty with **Colombia** was under consideration.—A battle at Caqueta between **Colombian** and **Peruvian** troops resulted in the Colombians being defeated with heavy losses. News of the agreement concluded between the two countries for the delimitation of the frontier did not reach Caqueta in time to prevent the combat.—The ministers of **Haiti** and **Santo Domingo** at Washington were instructed on May 3 to draw up and sign a protocol submitting the long-standing boundary dispute to arbitration.

II. THE UNITED STATES

THE ADMINISTRATION.—During the summer **President Taft** made a number of speeches in the East and Middle West discussing the reciprocal trade agreement with Canada and the proposed arbitration treaties with Great Britain and France (see *supra*). At Hartford, on September 7, he criticized the attitude of the Senate Committee on Foreign Relations as "limited and narrow." On September 15 he began a speaking tour of 13,000 miles through the Middle West to the Pacific, afterwards extending it so as to include Kentucky, Tennessee and West Virginia. He

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spoke in justification of his tariff vetoes (see *infra*, p. 743), defended the decisions of the Supreme Court interpreting the Sherman Act (see *infra*, p. 750) and, while urging the ratification of the arbitration treaties, suggested that the Senate might be allowed to confirm appointments to the Joint High Commission. He even intimated that he would consent to do away with the commission altogether, leaving a board of arbitration to decide whether each controversy were arbitrable. On October 16 the president's special train was saved from possible destruction near Santa Barbara, California, by the timely discovery of a large quantity of dynamite under a bridge built by non-union labor.—On July 12 Attorney-General Wickersham recommended to the president the dismissal of **Dr. Wiley**, chief of the Bureau of Chemistry in the Department of Agriculture, on the ground that an expert had been employed to assist in the enforcement of the Pure Food Act at a salary higher than the legal amount of $9 a day. The law, it was charged, had been evaded by placing the expert on the pay-roll of the department, with the understanding that a higher daily rate should be paid up to the amount of $1600 a year. On September 15 the president upheld Dr. Wiley and reproved certain subordinate officers. Early in October George B. McCabe, a solicitor in the department, was relieved from service on the Pure Food Board, and Dr. Dunlap, another member of the board hostile to Dr. Wiley, received a long leave of absence. The president declared that there were "broader issues raised by the investigation . . . which may require more radical action."—Charges relating to the disposal of **Alaska lands** fronting on Controller Bay (see *infra*, pp. 744, 745) elicited a message of July 26 showing these charges to be of a "maliciously slanderous character." On June 26 the so-called Cunningham claims, involving 5250 acres of coal lands, were declared invalid. In September forty-nine claimants to the Watson coal lands were cited before the land office at Juneau to show cause why their claims should not be cancelled. Secretary of the Interior Fisher, returning from a visit to Alaska in October, said that the final solution of Alaska's problems must lie with Congress.—Proceedings before the Board of General Appraisers in June disclosed large **customs frauds** in the importation of laces from Syria on false invoices. In the summer, proceedings were begun against a wealthy manufacturer of Wisconsin and a millionaire coalman of Tennessee on the charge of smuggling jewels valued at $150,000. In July, in the circuit court at New York, two Rosenberg brothers, charged with systematic undervaluation of dresses and millinery goods, pleaded guilty and were sentenced to pay fines of $25,000 each. The same court had previously imposed a prison sentence on a Greek who pleaded guilty to small frauds in the false weighing of shipments of fish. Three members of the firm of Duveen Brothers, charged with defrauding the government to the extent of $2,000,000 by undervaluations (see last RECORD, p. 353) pleaded guilty to conspiracy and paid large fines. When the case of the fourth brother was called on October 23, he was absent in Europe; the federal attorney asked the court to declare the defend-

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ant's $50,000 bail forfeited, but this request was denied.—In July the **postmaster-general** announced an increase of $100 in the salary of each mail carrier on all standard rural-free-delivery routes, his intention being to compensate these carriers for the additional burdens which would be placed upon them should Congress adopt the parcels-post system for rural districts. He also issued orders for promotions of city letter carriers and clerks, representing a total salary increase of more than $2,000,000. In June he declared that the sums paid to the railroads for the transportation of mails might be reduced the extent of $9,000,000 a year, without injustice to the companies. In the annual estimates he advocated a parcels post, asking for $50,000 to cover preliminary expenses on rural mail routes and a similar amount for city delivery. In October the *Review of Reviews* Company filed a suit in equity against the postmaster-general and the postmaster of New York, asking that they be restrained from forwarding monthly and bi-weekly periodicals by fast freight instead of by the regular mail trains. The court held that it had no power to control the exercise of executive discretion.—According to the annual report of the commission the **Panama Canal** will be ready for the passage of ships by January, 1914, or possibly six months earlier. In October it was announced that instead of a great naval station at Colon a ship-yard for docking and repairing merchant vessels would be established. The secretary of War made an inspection of the canal in July. Bids for ocean mail contracts from the Atlantic to the Pacific through the canal were to be submitted to the postmaster-general prior to November 25. It was reported that a company with $15,000,000 capital had already been formed for the purpose of operating American-built ships on this mail route.—At the close of the fiscal year 1910–1911 the **Treasury** showed a surplus, as against a deficit in 1909–1910.—The annual report of the commissioner of **pensions** showed that the number of pensioners had decreased by almost 30,000 and the amount paid by $3,500,000.—An American battleship squadron, comprising the second division of the Atlantic fleet, visited Europe in the early summer and was inspected by the Russian and German emperors. On November 2 President Taft reviewed a fleet of twenty-four battleships and other warships on the Hudson River. He spoke in favor of a stronger **navy**, especially desiring more destroyers and swift cruisers.—Among the **appointments** made by the president were: Henry L. Stimson, secretary of War, *vice* Jacob M. Dickinson, resigned; P. P. Claxton, commissioner of education, *vice* Elmer E. Brown, resigned; L. G. A. Leishman, minister to Germany; Lars Anderson, minister to Belgium; Lloyd Bruce, minister to the Netherlands.

CONGRESS.—The special session of the Sixty-second Congress (see last RECORD, p. 357) continued until August 22. Debate upon the Canadian **Reciprocity Bill**, which had already passed the House, began in the Senate on June 14. Progressive Republicans attempted to enlarge the scope of the bill by offering amendments putting meat and meat products on the free

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list (Senator Cummins) and reducing the duties on wool and cotton (Senator La Follette); but none of these proposals commanded more than fifteen votes. On July 22 the bill was passed unamended, 53 to 27. Three Democrats, twelve progressive Republicans and twelve regular Republicans composed the minority. The president signed the bill on July 26.—In the House the **Farmers' Free List Bill** (see last RECORD, p. 357) was passed on May 4, after two weeks discussion, the vote being 236 to 109. Twenty-four Republicans supported the bill. Though reported adversely by the Finance Committee, the bill was carried through the Senate, 48 to 30, by a coalition of Progressives and Democrats, but with amendments allowing the free admission of meats and flour and grain only when coming from countries granting reciprocal concessions. The report of the conference committee was adopted by both houses, but the president exercised his veto on the ground that the bill was loosely drawn, unscientific and based on insufficient information. On August 19 the House failed, by eleven votes, to override the veto.—On June 20 a **Wool Bill**, reducing the duty on raw wool to 20 per cent *ad valorem* and the duty on manufactured woolens to an average of about 42.5 per cent, passed the House, 221 to 100. One Democrat voted against the bill and twenty-six Republicans, chiefly Progressives from the Middle West, voted for it. In the Senate amendments were adopted fixing the duty on raw wool at 35 per cent and on manufactured woolens at 35 to 60 per cent. In this shape it passed on July 27 by 48 to 32, thirteen Republicans voting with the majority. Both houses adopted the report of the conference committee fixing the duty on raw wool at 29 per cent and the duty on manufactured woolens at 30 to 50 per cent. The president vetoed the bill on August 17 on the ground that Congress should wait until the Tariff Board reported on the wool schedule in December. The bill failed by fourteen votes to pass over the veto.—On August 3 the House passed, 202 to 91, a **Cotton Bill** which reduced the duties on manufactures of cotton by nearly one-half. Thirty Republicans voted with the Democrats. With amendments which reduced the duties on chemicals, machinery and soft coal, the Senate adopted the measure, 29 to 24. The House concurred in these amendments. In his veto message the president described the bill as "a matter of guesswork," "empirical and haphazard" and adopted without satisfactory investigation.—A **Reapportionment Bill**, fixing the membership of the House at 435 and empowering the states to redistrict on the basis of one member for each 211,877 inhabitants, was adopted by the House on April 23 and by the Senate on August 3 and was approved August 8.—A **Publicity Bill**, requiring candidates to file, before primary and general elections, statements of all promises made and expenses incurred, and limiting expenditure to $5000 for representatives and $10,000 for senators, became law on August 19.—A joint resolution admitting **Arizona** and **New Mexico** as states, under the condition that the former should submit to the people a constitutional amendment abolishing the recall of judges, passed both houses in August. The president vetoed

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it on August 15, condemning the recall of judges as "legalized terrorism." The houses thereupon passed and the president accepted a resolution requiring New Mexico to simplify the process of amending her constitution and Arizona to exclude judges from the provisions of the recall.—After Senator Cummins had attacked Mr. Aldrich and the **National Monetary Commission** on the ground of extravagance and illegal conduct, a bill was passed through Congress in August requiring the commission to make a final report on or before January 8, 1912. On October 19 Mr. Aldrich submitted to the commission a supplementary outline of his plan for currency reform through the establishment of a National Reserve Association. State as well as national banks are to be admitted. The two-per-cent bonds now held by the banks as the basis for note circulation are to be exchanged with the Treasury for three-per-cents without the privilege of note circulation.—The proposed constitutional amendment for the **direct election of senators**, which passed the House in April (see last RECORD, p. 357), was amended in the Senate, by the casting vote of the vice-president, so as to leave the control of elections with the federal government. Five progressive Republicans voted against the amendment and one Democrat for it. The resolution was finally adopted, 64 to 24. No compromise agreement was reached between the houses.—On June 7 the Senate decided to reopen the **Lorimer case** (see last RECORD, p. 357) and entrusted the new investigation to eight members of the Committee on Privileges and Elections, four belonging to each party. One of the eight had voted against Lorimer in the previous investigation; four had voted for him; and the other three were new senators. Hearings took place in Washington until the middle of August and were resumed in Chicago early in October. Most of the evidence had already been made public through the Illinois investigation.—On August 12 the Senate ordered an investigation into the election of Senator **Stephenson** of Wisconsin (see last RECORD, p. 362, and *infra*, p. 747). Hearings began before a sub-committee of the Committee on Privileges and Elections at Milwaukee on October 2. The senator and his election agents admitted spending $107,793 but denied all bribery. It appeared that payments were made to workers, without definite reports from them as to the disposition of the funds. In some counties the expenses amounted to five dollars a vote. Testimony was given to the effect that $110,000 (in addition to the money furnished by Stephenson) was raised for use in his interests.—The House of Representatives undertook to investigate the Post-Office Department, the sugar trust, the steel trust, the charges against Dr. Wiley and the administration of public lands in Alaska (see *supra*, p. 741). In the investigation of the **Steel Corporation**, which began on May 27, Judge Gary said that he favored government regulation of steel prices and federal licenses for corporations. On August 5 Mr. Roosevelt testified that he had permitted the absorption of the Tennessee Coal and Iron Company in 1907 in order to check the panic and claimed that the result justified his action. The Alaska **land**

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investigation had to do with the withdrawal from the Chugach forest reserve in 1910 of 12,800 acres of public land on Controller Bay and the subsequent filing of an application for 320 acres by a man reported to be an agent of the Morgan-Guggenheim syndicate. It was alleged that the president, at the solicitation of his brother and by a secret order, had enabled the syndicate to get possession of the only available harbor near the great Bering River coal fields. According to Mr. Ballinger, however, the order opening the land to entry was made on the recommendation of Mr. Pinchot's Forestry Bureau. In transmitting information to Congress on July 26 the president explained the whole matter in an entirely satisfactory way. (For the action of the Senate on pending **treaties** see *supra*, pp. 739, 740.)

THE FEDERAL JUDICIARY.—Among the more important decisions of the **Supreme Court** were the following. A New York statute prohibiting the use of photographs for advertising purposes without permission is constitutional (Sperry and Hutchinson Company *v.* Rhodes, 220 U. S. 502). A state statute prohibiting the exportation of oil from the state is unconstitutional, being a restraint on interstate commerce (Oklahoma *v.* Kansas National Gas Company, 221 U. S. 229). The fifth amendment does not protect an officer of a corporation against compulsory production of the books of the corporation (Wilson *v.* United States, 221 U. S. 361). A provision in the charter of a railroad company exempting it from liability for the death of its employees, even if caused by its own negligence, is not a contract and may be repealed (Texas and New Orleans Railroad Company *v.* Miller, 121 U. S. 408). A New York statute prohibiting the display of advertising matter on wagons is constitutional (Fifth Avenue Coach Company *v.* New York, 221 U. S. 467). Congress can not impose upon a new state, as a condition of admission to the Union, restrictions which render it unequal to the other states, as for instance limitations upon its power to locate and to change the location of its capital (Coyle *v.* Oklahoma, 221 U. S. 559). The sixteen-hour law of Congress, regulating the hours of labor of railway employees, is constitutional, being a regulation of interstate commerce (Baltimore and Ohio Railroad Company *v.* Interstate Commerce Commission, 221 U. S. 612). An agricultural college is not such an agent of the state as to be immune from suit under the eleventh amendment (Hopkins *v.* Clemson College, 221 U. S. 636). A Massachusetts statute directing that abandoned savings-bank accounts be turned over to the state does not deprive the banks of their property without due process of law, nor is it unconstitutional because it applies only to savings banks (Provident Savings Institution *v.* Malone, 221 U. S. 660). For the important decisions under the **Sherman Act** ordering the dissolution of the Standard Oil Company and the American Tobacco Company see *infra*, p. 750.—On October 14 John M. Harlan, associate Justice of the Supreme Court and its oldest member, died of acute bronchitis at Washington, aged seventy-eight. The president, after choosing his successor, will have named a majority of the nine members of the court.

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STATE AFFAIRS.—The fourth **conference of governors** (see RECORD of June, 1910, p. 372) began sessions at Spring Lake, New Jersey, on September 12. Among the subjects discussed were regulation of public utilities, woman suffrage, workmen's compensation and state insurance as an aid to labor. By a vote of twenty-five to one a committee was appointed to make formal protest before the United States Supreme Court against the decisions of the lower federal courts in the matter of the regulation of intrastate railroad rates by state commissions.—The sixteenth or **income-tax amendment** to the federal Constitution (see last RECORD, p. 359) was ratified by the legislature of New York in July, bringing the number of states which have accepted the proposal up to 31.—On October 10 the people of **California** adopted twenty-three amendments to the state constitution. The initiative, referendum and recall (including judges) were adopted by enormous majorities (in the case of the recall 124,360); woman suffrage by about 3500. The other amendments provide for employers' liability legislation; empower the railroad commission to fix rates, prevent discriminations and regulate public-service corporations; extend the powers of municipalities and make their officers more fully responsible to the popular will; prohibit the setting aside of verdicts in criminal cases on purely technical grounds; and provide that after the introduction of bills in the legislature there shall be a recess of thirty days for their consideration, after which no bills may be introduced except by a three-fourths vote.—The biennial session of the **Colorado** legislature ended on May 6 without the choice of a successor to United States Senator Hughes.—On September 26 the General Assembly of **Connecticut** adjourned after a long session, in which it created a utilities commission to replace the railroad commission and an industrial commission to investigate the employment of women and minors. It also passed an employers' liability bill.—On May 17 the Helm committee of the **Illinois** Senate reported that its efforts to discover the sources of the Lorimer bribery fund (see last RECORD, p. 360) had been blocked by the action of Judge Petit of the circuit court, ordering the release from custody of three persons supposed to have been concerned in raising the fund. The Senate, in accepting the report, called upon the United States Senate to undertake a new investigation of Lorimer's election (see *supra*, p. 744). On June 29 the legislature adjourned without passing the deep-waterway measure for the adoption of which the special session had been called.—Under a new **Indiana** law food products placed in cold storage must bear a tag showing the date of entry and removal. The time limit for storage is fixed at nine months.—At a special election on September 11 the people of **Maine** decided to retain the constitutional prohibition of the sale of liquor. The prohibition majority was so narrow that the result was in doubt until November 6.—On June 16 Governor Foss of **Massachusetts** signed a Direct Nominations Bill applying to all state officers, legislators and congressmen. Among the other measures passed were acts establishing a system of assisted old-age insurance for state employees, a

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fifty-four-hour week for textile workers, compensation for injured workmen and penalties for corrupt practices in elections.—In September it was discovered that 11,000 persons had registered fraudulently in Newark, **New Jersey**, some of them from vacant lots. The grand jury, continuing investigation into the election frauds practised at Atlantic City (see last RECORD, p. 361), returned sixteen indictments in August and ten in September. In October a wealthy merchant and a clerk in the office of the city controller were convicted of buying votes.—The legislature of **New York** adjourned on October 6 after a session of extraordinary length. Bills were passed amending the election law, providing for a system of direct primaries and setting a time limit of one year on the storage of foodstuffs. Among the defeated measures were a proposed charter for the city of New York (see *infra*, p. 749), a woman-suffrage bill and a bill relieving racing associations from responsibility for gambling at the tracks. On October 10 the court of appeals declared unconstitutional provisions of the new election law which required personal registration in country districts and which prohibited the printing of a candidate's name in more than one column of a ballot.—On May 2 a grand jury at Columbus, **Ohio**, began to investigate the charges of legislative corruption made the previous day (see last RECORD, p. 362). Eight members of the legislature were indicted in May, several others in June. One of them, acquitted June 1, was indicted a week later on a new charge. On July 3 R. J. Diegle, sergeant-at-arms of the Senate, was convicted of accepting a bribe and of aiding and abetting Senator Andrews to solicit and accept a bribe. The facts brought out in the bribery investigation led to the adoption of Governor Harmon's program of reform legislation. An act was passed fixing imprisonment without the option of a fine as the penalty for bribing public officers. Other acts reduced the hours of labor for women to fifty-four a week, provided for the direct election of United States senators and established an optional workmen's compensation system.—Late in May the supreme court of **Pennsylvania** affirmed the sentence of Joseph M. Houston to pay a fine of $500 and to serve a term in prison for conspiring to defraud the state in the erection and furnishing of the state capitol.—The voters of **Texas** defeated state-wide prohibition by a majority of six thousand in July.—The legislature of **Washington** adopted amendments to the constitution providing for the initiative and referendum and the recall (applicable to all but judicial officers).—During the early summer the **Wisconsin** legislature directed the appointment of a committee to inquire into the conduct of fire-insurance business; created a board of public affairs with power to supervise all public bodies and secure uniformity and accuracy of accounting; and passed a resolution to submit to the people a woman-suffrage amendment and an amendment establishing the initiative, referendum and recall. By joint resolution the United States Senate was requested to undertake an investigation of the election of Senator Isaac Stephenson (see *supra*, p. 744).

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MUNICIPAL AFFAIRS.—At the close of this RECORD **commission government** had been adopted by some 170 cities having an aggregate population of nearly three and a half millions and scattered over thirty-two states. Under a permissive statute passed by the legislature earlier in the year several New Jersey cities adopted commission charters, the most important being Trenton and Passaic. Hoboken, Bayonne, New Brunswick and Jersey City rejected the plan. In the autumn Omaha (Nebraska), Lowell and Lawrence (Massachusetts), Salt Lake City (Utah) and Sacramento (California) adopted the plan, and Atlanta (Georgia), Cambridge and Chelsea (Massachusetts) rejected it. In September the supreme court of Oklahoma decided that the election in which Guthrie had adopted commission government some months before had been improperly called and was therefore invalid. This decision put an end to the confusion which had arisen through the existence of two rival city governments. On October 30 the attorney-general of Texas published an opinion that the act under which sixteen cities had adopted commission government was invalid. —In September thirty-six election officials were indicted at **Baltimore** charged with committing frauds in the primary election.—In July the **Chicago** city council passed an ordinance reducing the price of gas from 85 to 75 cents and providing for a further reduction to 70 cents for the second and third years and to 68 cents for the fourth and fifth years. In August the circuit court issued a temporary injunction against the enforcement of the ordinance, but fixed the price at 80 cents pending a final decision. In June extensive frauds in the valuation of property were revealed by a member of the board of tax assessors. In October the city council approved the mayor's proposal that a commission be appointed to prepare plans for a subway system.—On October 20 the city of **Detroit** reached an agreement with the street railway company under which the former drops all pending suits and the latter concedes universal transfers and within certain hours three-cent fares. The agreement is to be submitted to the voters.— On May 26 the city of **Denver** was restrained by a federal injunction from issuing bonds or taking any other steps towards installing a municipal water system, on the ground that by an ordinance of 1890 the city had agreed to give the local water company a franchise for twenty years and then to renew the agreement or purchase the plant.—In July the mayor of **Des Moines** succeeded in reducing the prices of farm and garden produce by opening a common market place on the city-hall lawn.— In September the mayor of **Gary**, Indiana, the city engineer, five aldermen and one other person were arrested on the charge of bribery in connection with the passage of a heating franchise.—Late in September ouster proceedings were brought against the councilmen of **Hunnewell** in the supreme court of Kansas on the ground that they persistently obstructed the administration of the woman mayor.—In October the mayor of **Indianapolis** sold large quantities of farm and garden produce at wholesale prices in order to reduce the exorbitant charges of middlemen.—In October the grand jury at

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Jersey City discovered extensive frauds in the counting of the primary election vote.—On November 1 an information was laid against one of the Democratic candidates for the supreme court in **New York** city charging him with conspiracy and corrupt practices in obtaining the nomination. On September 30 a new city charter, approved by the mayor but condemned by most of the other leading officials, was defeated in the state Senate after having passed the Assembly (see last RECORD, p. 363). In June contracts for eighty-seven miles of elevated and subway lines, which will cost $235,000,000, were awarded to the Brooklyn Rapid Transit Company. On September 26 Governor Dix removed Borough President Gresser of Queens on charges of inefficiency, incompetence and neglect of duty (see last RECORD, p. 363). The budget for 1912, as approved by the board of estimate in November, amounts to $189,000,000. In October women school teachers were conceded equal pay with the men; this will add $3,500,000 to the annual pay rolls.—On September 30 the first direct-primary election occurred in **Philadelphia**, five-sixths of the qualified voters taking part in the nomination of the mayoral candidates. In September the state Senate appointed a commission to inquire into charges against Mayor Reyburn, but this inquiry was ended suddenly and just prior to the election in November.—In May the trial of Frank N. Hoffstot, charged with conspiracy to bribe members of the city council of **Pittsburgh**, ended in the jury's failing to agree (see RECORD of June, 1910, p. 374). On September 29, following an investigation by the Voters' League, more than a thousand warrants were issued for the arrest of men charged with fraudulent registration. In June a new form of city government was inaugurated, consisting of a mayor and nine councilmen serving for four years. The mayor has a right of veto which extends to items in the budget. He may make appointments with the approval of the council and remove for reasons which must be stated to the council. A similar system has been established in **Scranton**.—In the direct, non-partisan primaries held in **San Francisco** on September 26 James Rolph, Jr., was nominated over Mayor McCarthy by a full majority of all the votes cast and thus became mayor without further contest.—In September the attempt of a disreputable ring of politicians to bring about the recall of the mayor of **Seattle** collapsed when the significance of the movement became generally known; many of the signers withdrew their names from the petition.—In a recall election at **Wichita**, Kansas, the mayor and a commissioner were deposed from office largely for their neglect to enforce the prohibition law. A second councillor against whom the recall was directed retained his office by a majority of thirty-eight.

THE ELECTIONS.—In the November **state** elections the Republicans were successful in **New York**, where they won back the Assembly; in **New Jersey**, where they retained control of the Senate and secured a majority in the Assembly; in **Maryland**, where they elected the governor; and in **Rhode Island**, where they reëlected Governor Pothier and retained control

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of the legislature. In **New Mexico** the Democrats elected the governor and will have a majority in the Assembly and on joint ballot should the Progressive Republicans act with them; the easier method of constitutional amendment, required as a condition of statehood (see *supra*, p. 743) was adopted. Governor Foss (Democrat) was reëlected in **Massachusetts** by a much reduced majority; the Republicans carried the rest of the state ticket and the legislature. The Democrats swept **Kentucky**, electing the governor by a large majority and securing control of both branches of the legislature. For the first time in the history of New York and Rhode Island a **Socialist** was elected to the Assembly.—In the **municipal** elections the Socialists showed surprising strength, winning the office of mayor in ten of the smaller Ohio cities; in Newcastle and Wheatland, Pennsylvania; in Schenectady, New York; and in several small places in Utah. In Schenectady they elected a majority of the aldermen, eight of the eighteen supervisors, the whole city ticket except the city judge and the whole county ticket except the sheriff.—Rudolph Blankenburg, candidate of the Keystone and Democratic parties, won the mayoralty of **Philadelphia**; the Republicans carried all the other offices except that of city solicitor. Democratic mayors were elected in **Columbus**, **Cleveland** and **Cincinnati**; the outcome in Cincinnati attracted special notice in view of the endorsement of the Republican ticket by President Taft. In **New York** the Democrats lost control of the board of aldermen, failed to elect three of their six candidates for the supreme court and won the shrievalty by a plurality of less than 2200 votes, as against 26,000 four years previously.

THE TRUST PROBLEM AND THE RAILROADS.—On May 15 the United States Supreme Court declared the **Standard Oil Company** to be a combination in restraint of trade and ordered its dissolution within six months. The full bench concurred in the opinion, which was prepared by the chief justice and which affirmed the decree issued by the lower court in November, 1909. In reaching his conclusion the chief justice expressed the view that the Sherman Act prohibits contracts and combinations only when they unreasonably or unduly restrain interstate trade and commerce or unreasonably restrict competition. From this position Justice Harlan dissented sharply, remarking that this application of "the rule of reason" had been expressly excluded by the court fifteen years before.—On May 29 the Supreme Court ordered the dissolution of the **American Tobacco Company** on the ground that its monopoly of the industry and the acts by which it acquired the monopoly amounted to undue and unreasonable restraint of trade. Six months were allowed the company in which to make plans to create "out of the elements now composing it a new condition, which shall be honestly in harmony with and not repugnant to the law." Justice Harlan again argued against applying the test of reasonableness and declined to consider the reorganization and continuance of the company under any guise whatever. On May 31 the company's stock fell 70 points on the New York stock exchange.—In obedience to the

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decree of the court the Standard Oil Company announced to its stockholders of record September 1 that the shares of the thirty-three subsidiary corporations would be distributed to them *pro rata* by the first of December. Tentative plans for reorganization into fourteen independent companies were announced by the American Tobacco Company in October. On October 31 Attorney-General Wickersham pronounced them unsatisfactory but later agreed to certain modifications. The circuit court at New York approved the modified plans on November 8. On October 26 the federal government brought suit against the **United States Steel Corporation** in the circuit court at Trenton, New Jersey, asking for the dissolution of the company under the Sherman Act. The defendants in the suit are the corporation itself, its seventeen leading constituent companies, twenty subsidiaries and eighteen individuals, including John D. Rockefeller, J. P. Morgan and Andrew Carnegie.—On October 12 the United States circuit court at Toledo ordered the dissolution of the **National Electric Lamp Company** and thirty-six subsidiaries and forbade the General Electric Company to conduct any business in the manufacture or sale of electric lamps except in its own name.—On June 21 Judges Gray, Buffington and Lanning in the circuit court at Wilmington, Delaware, declared the **Dupont Powder Company** and twenty-eight other companies and individuals guilty of maintaining a combination in restraint of interstate commerce. Indictments against fourteen other companies and Senator DuPont were dismissed.—On June 29 the federal grand jury in New York city indicted eighty-three men connected with the steel **wire industry**, charging them with conspiracy to restrain trade. Most of the accused entered pleas of *nolo contendere* and were fined an aggregate sum of nearly $150,000. E. E. Jackson, who formed the combination, was fined $45,000.—On October 13 the United States circuit court at Baltimore ordered the dissolution of the so-called **bathtub trust**. Criminal proceedings are being brought against the members of the trust at Detroit (see last RECORD, p. 365).—In June the federal government brought suit under the Sherman Act against the Periodical Clearing House, an association of **magazine publishers** who were charged with seeking to prevent competition in subscription rates.—On September 19 six officials of the United Shoe Machinery Company were indicted by a federal grand jury at Boston on the charge of violating the Sherman act.—On June 23 fourteen men connected with the so-called **lumber trust** were indicted at Chicago on the charge of violating the criminal provisions of the Sherman Act. According to the government the defendants kept a blacklist of the wholesale dealers who violated a rule forbidding direct sale to the consumer. Petition was filed in Denver on September 27 asking the court to enjoin the Secretaries' Bureau from circulating blacklists and the Colorado and Wyoming Lumber Dealers' Association from contributing to the support of the bureau.—In June twenty-one officers of nineteen **box-board manufacturing** companies were indicted in New York on the charge of renewing a combination which had been dissolved by the courts in 1910.

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—On July 19 four officials of wall-paper jobbing houses were indicted at Cleveland on the charge of conspiracy in restraint of trade.—The federal government entered suit against the Lehigh Valley Railroad on July 6 and the Reading Railway on July 17 under the commodities clause of the Hepburn Act. The purpose of the actions is to force the **railroads** to relinquish control of the **coal companies** in conformity with the recent interpretation of the commodities clause by the Supreme Court (see last RECORD, p. 364).—On August 2 suit was entered at Columbus against the Chesapeake and Ohio, the Hocking Valley, several other railroads and three coal companies, charging violation of the Sherman Act in connection with the mining, transportation and sale of soft coal.—On June 24 the circuit court at St. Louis decided that the **merger** of the Union Pacific and Southern Pacific railroads was legal as the roads were not in substantial competition for transcontinental traffic at the time of the merger. Judge Hook dissented. —On October 30 the United States Supreme Court held that all equipment used on railways which are highways of interstate commerce must comply with the federal Safety Appliances Act even when such equipment is used in transporting goods within a state.—On July 26 the Interstate Commerce Commission reached an important decision on the complaint of intermountain cities that the railroads gave better westward **freight rates** to Pacific coast cities than to them. The commission sought to modify this discrimination by breaking the country into longitudinal zones and by providing that the further west traffic originates the less shall be the discrimination. From points west of the Missouri short-haul rates must be no greater than long-haul rates, as the railroads no longer have to meet water competition. On October 19 the commission ordered all **express companies** to furnish on or before December 1 detailed information as to their operations.—On September 20 the commission declined to suspend a proposed reduction in the rail and lake rates on flour from transfer points in Minnesota to New York and also declined to permit the eastern lines to withdraw their concurrence in the reduced rates.—On July 31 the commission approved increases in commutation rates on railroads operating in and out of New York city, except in the case of the Pennsylvania Railroad, whose rates were found to be excessive.

LABOR AND CAPITAL.—Contrary to a decision of the New York court of appeals in a somewhat similar case (see last RECORD, p. 366), the supreme court of the state of Washington held, in October, that an **employers' liability** act was not unconstitutional as taking property without due process of law, violating the rule of uniform taxation or discriminating between classes.— As the result of a fire in which 145 sewing girls lost their lives and others were injured in March, 1911, suits for damages aggregating half a million dollars were brought against the Triangle Waist Company. The defendants, in their answer, alleged that the injuries and deaths were due to the negligence of fellow servants and that all the employees had assumed the risks of their calling. Investigators after the fire found

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that the water tank on the roof was empty, that the exit doors swung only inwards and that the inadequate fire-escape was blocked by iron shutters. —On July 12 John J. and James B. McNamara, arrested for alleged complicity in **dynamiting outrages** (see last RECORD, p. 365), pleaded not guilty to nineteen charges of murder made against them. On October 11, after Judge Bordwell had refused the informal motion of the defence for a change of trial judge, the trial of James B. McNamara began. At the close of this RECORD little progress had been made in the selection of the jury. In July an appeal was addressed to two million members of the American Federation of Labor to raise a fund of $500,000 for the defence. In the middle of June the grand jury of Marion county, Indiana, indicted J. J. McNamara on the charge of conspiring to dynamite a railroad bridge at Peoria, Illinois, and W. J. Burns on the charge of kidnapping McNamara and forcibly taking him out of the state.—In September twenty labor leaders and former employees of an electric road running out of Pittsburgh were indicted at Butler, Pennsylvania, on the charge of complicity in the dynamiting of cars.—On May 1 shopmen employed by the **Pennsylvania Railroad** between Pittsburgh and Altoona struck for recognition of their union. A few days later they were joined by shopmen at other points. Early in June, after some violence had occurred, the men returned to work.—On September 23 more than 1500 shopmen employed on the Missouri, Kansas and Texas Railway went on strike after the refusal of the railway officials to confer with the union regarding increase of wages and improvement in working conditions.—Figures compiled in August showed that the railroads were then employing 81,900 fewer men than the year before, the reduction in annual wages amounting to $94,000,000.—On October 7 the firemen on the Georgia and Florida Railroad returned to work after a ten-day strike, their demand of fifty per cent of engineers' pay being granted.—On September 16, 1200 section foremen and laborers on the Lackawanna road struck to secure the reinstatement of a foreman who had been dismissed after presenting their demands for higher wages and better conditions.—On September 1, Vice-President Kruttschnitt of the **Harriman lines** refused to recognize the Federation of Shop Employees or to concede increase in salaries "with the business of the country rapidly declining." On September 30, 18,000 shopmen struck. Governor Noel of Mississippi suggested arbitration, but President Markham of the Illinois Central refused to consider it. Especially in the southern states there was much violence and some loss of life in October. State militia were called out in Mississippi and Kentucky, and some towns were placed under martial law. The railroads secured temporary injunctions from the federal courts restraining the strikers from interfering with the men at work.—On November 8 the strike of telegraphers on the Southern Railway and the Baltimore and Ohio, which had lasted all through the summer, was brought to an end. An eight-hour day was conceded except in the offices employing only one man; the Baltimore and Ohio men received a six per cent increase of

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wages; the Southern men twelve per cent.—A strike of motormen and conductors on the Des Moines **street railway** was ended on August 5 by a court order which reinstated the union carman whose discharge had precipitated the strike and which left the dispute to be settled later.—On October 19 nearly 400 carmen went on strike when the Schenectady Railway Company refused to reinstate thirteen men who had been discharged as members of a union.—The Philadelphia Rapid Transit Company (see RECORD of December, 1910, p. 741) announced in August a plan by which the carmen will receive by 1915 a maximum of 28 cents an hour, two cents more than the union sought to obtain. Twenty-two per cent of the gross passenger earnings will be paid in wages. If the men, by a two-thirds vote and secret ballot, request it, the company will deal with them through the union.—In August the International Seamen's Union of America declared a strike on transatlantic tramp steamers with the idea of preventing American **seamen** from taking the places of striking English sailors (see *infra*, p. 759).—Early in June 7500 **boiler-makers** and other workmen in the Baldwin Locomotive Works, Philadelphia, went on strike. The works, which employed 12,000 men, shut down on June 12.—On May 1, after making demands for higher wages, shorter hours and recognition of their unions, 10,000 men employed in the Chicago **building and metal trades** and in the brick-making industry went on strike. The refusal of teamsters to haul bricks shipped to the city from outside points prevented any serious work on building contracts aggregating $40,000,000. —On October 17 more than 500 **shoe cutters**, employed in eighteen factories at Lynn, struck to enforce their demand for an eight-hour day. —Early in June between four and five thousand **garment workers** in Cleveland struck for a fifty-hour week with no more than two hours a day overtime. On July 24 serious rioting occurred in which two strikers were shot. —In the middle of September more than 8,000 men and women employed in the manufacture of tailor-made gowns struck to enforce their demands for a forty-eight-hour week, the abolition of piece work, double pay for overtime, a minimum weekly scale of $26 and improved conditions. A week later they returned to work after considerable concessions had been made.—On May 15 the United States Supreme Court set aside the sentence of imprisonment imposed upon Samuel Gompers, Frank Morrison and John Mitchell by the supreme court of the District of Columbia (see RECORD of June, 1910, p. 375). To the renewed contempt proceedings against them in the lower court they entered, on July 24, pleas of not guilty and of immunity under the statute of limitations.

LYNCHING AND THE RACE PROBLEM.—While attempting to capture a negro murderer near Tuscaloosa, **Florida**, on September 23, two deputy sheriffs were killed and one seriously wounded. The fugitive escaped to the swamps with a supply of ammunition.—Two negroes, one charged with assaulting a white woman and the other held on suspicion as an accomplice, were lynched in Walton County, **Georgia**, on June 27.

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The responsibility appears to rest with Judge Brand, who refused the governor's offer of a military guard, although his refusal to employ troops two months before in a similar case led to a lynching. In August a negro preacher murdered the marshal of Jakin. For three days afterwards bands of white men scoured the country, killing and whipping negroes and burning their churches, lodge-rooms and school-houses. Early in October a negro charged with attempted assault on a white woman was taken from the bailiff near Irwinton by forty masked men and hanged.—As a sequel to the lynching at Calhoun, **Kentucky**, in April (see last RECORD, p. 368), and following the grand jury investigation, thirteen arrests were made.—As the result of the killing of one college student and the wounding of another by negroes, race riots occurred in Alexandria, **Louisiana**, in September. Several negroes were killed.—On October 10 a mob broke into the jail at Caruthersville, **Missouri**, and shot two negroes, one of whom was held for assault on white women and the other on suspicion of robbery.—Serious race riots were prevented at Coweta, **Oklahoma**, on October 22, only by the prompt appearance of state troops, Bitter feelings, which had been growing for months past, were brought to a head by the lynching of a negro who had killed one white man and wounded two others.—On August 13 a negro who had killed a policeman in attempting to escape arrest was dragged from the hospital at Coatesville, **Pennsylvania**, bound to a bed, and burned to death. Leaders of the mob tortured him with pitchforks when he strove to break his shackles. The state constabulary was sent to maintain order, and Governor Tener insisted on a thorough investigation. Nine indictments were found. Five of the accused were acquitted in October, evidently to the public satisfaction. On September 30 the chief of police, although under indictment for manslaughter, received the Republican nomination for high constable. Trouble broke out again on October 9 when a white girl was assaulted by a negro.—On October 10 a negro who had assaulted a young white girl at Greenville, **South Carolina**, was taken from the sheriff and lynched.—The jail at Forest City, **Tennessee**, was stormed on October 16, and a negro who had assaulted a white woman was taken from it and hanged.—In the city of **New York**, early in November, a negro real-estate dealer entered suit against the treasurer of a theatre on the ground that he had been excluded from the orchestra seats.

THE DEPENDENCIES.—When the **Philippines** Assembly met on October 16, the delegates declared that they intended to subordinate the movement for independence to the development of industrial prosperity. In the previous session the sum of $25,000 was appropriated for the purpose of advertising the islands. The government is now making six-per-cent loans on agricultural property and has guaranteed four per cent to a French syndicate which is investing $10,000,000 in an agricultural bank. In July great loss was occasioned by typhoons. Rain fell continuously for thirteen days. In Luzon the damage was estimated at $1,500,000. The Philippines army was occupied in pursuing Moro outlaws and suppressing

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brigandage on the island of Mindanao. Late in September an ensign was killed and three sailors wounded by hostile natives on one of the Basilan islands, which lie south of Zamboanga. In October the constabulary killed Otay, last chief of the Pulajanes and for the last thirty-two years an outlaw on the island of Samar. The efforts of the government to promote sanitation and reduce the death rate have had notable results. In the provinces about Manila, where smallpox used to carry off some 6000 persons annually, there was not a single death last year. The polluted water supply of the city has been replaced by tapping an uninhabited watershed, and a sewage system has been built.—In July the secretary of War visited **Porto Rico**, where he conferred with Governor Colton, reviewed the troops and inspected the military post at Cayey. Speaking at Lake Mohonk, New York, in October, Judge Dominguez explained the grievances of the Porto-Ricans. These are: the lack of American citizenship, the predominance of the executive department and the constitution of the Senate.

III. LATIN AMERICA

MEXICO.—Formal peace negotiations, opened near Ciudad Juarez on May 3 between representatives of President Diaz and the Maderists (see last RECORD, p. 370), were suspended on May 6, and fighting was resumed. The **revolt** spread in the state of Oaxaca and even to Mexico city, and on May 10 the rebels captured Juarez. Peace negotiations were thereupon resumed, General Madero accepting the government's proposals for the immediate resignation of President Diaz and Vice-President Corral, for the designation of Señor de la Barra as president *ad interim*, with a cabinet selected in consultation with General Madero, and for a free election within six months. **Peace** was proclaimed on May 18, and one week later General Diaz formally resigned and departed secretly for Vera Cruz, whence he took ship for Spain. It took some time and no little tact on the part of Señor de la Barra to reëstablish order in the republic. Lower California did not accept the new arrangement until June, and there were riots in Oaxaca and fighting near Puebla between Federalists and Maderists in July. The cost of the insurrection was estimated at over twenty million dollars.—A decree was promulgated in June calling for a special **presidential election**, six electors to be chosen by each state and territory on October 1 and these to select General Diaz's successor on October 15. General Francisco Madero, who was nominated by the Constitutional Progressive Party in August, was unanimously elected president. General Bernardo Reyes, also a candidate, withdrew from the contest and left the country before the elections. Señor Pino Suarez was chosen vice-president.—That peace was not yet secure was evidenced by occasional encounters in October between the followers of the rebel leader Zapata and the federal troops.

THE WEST INDIES AND CENTRAL AMERICA.—General Simon, who succeeded the dictator Nord Alexis in the government of **Haiti**, by methods not unlike those of his predecessor drove part of the opposition

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into armed revolt. In July, news came suddenly that revolutionaries under General Lecomte were in control of Fort Liberté, Gonaives and Ste. Marie, and that the president was shut up in Port-au-Prince. Recognizing the situation as hopeless and further resistance as futile, General Simon embarked on August 2 under the protection of foreign flags and departed for Kingston, Jamaica. The revolutionary army at once entered the capital, and the Chamber elected General Lecomte president on August 14.—The **Cuban** government was disturbed in August by General Acevedo, the revolutionary veteran who led the revolt of 1910, and who now denounced the administration as corrupt and called upon President Gomez to resign. Several riots led by him near Havana were in turn suppressed.—Juan Estrada resigned on May 10 as president of **Nicaragua**, and was succeeded in office by Vice-President Diaz.

SOUTH AMERICA.—General Castro, the erstwhile dictator of **Venezuela**, after two and a half years' exile, returned in July and announced that he would organize a party of opposition.—A new cabinet took office in **Peru** on August 30 under the presidency of Senor Austin Ganoza.—**Paraguay** suffered a revolution in July. The officers of the garrison at Asuncion rose in arms, seized President Jara and compelled him to resign. Congress afterwards met and selected Senor Liberato Rojàs, head of the Senate, as provisional president.—The **Uruguayan** budget, as presented to Congress in July, showed a total expenditure of $28,533,000, the increase of four millions being devoted to public improvements.—The Congress of **Argentina** authorized in June a new loan of $70,000,000 for schools, colleges and federal offices. One of the two Argentine battleships ordered in the United States, and the largest in the world, was launched at Philadelphia on August 29.—A new cabinet took office in **Chile** in August, comprising José Gutierrez, minister of the Interior, Enrique Rodriguez, Foreign Affairs, and Benjamin Montt, Justice. The budget for 1912, laid before Congress in June, estimated expenditures at $80,500,000. Owing to the determined blocking tactics of the minority, Congress closed in September without deciding on any definite measures to deal with the financial situation. The Chamber voted to authorize the president to negotiate a loan of $17,500,000 for a second dreadnought and for new artillery, and the Senate took the bill under consideration after its reassembling on October 15.

IV. THE BRITISH EMPIRE

THE CORONATION.—King George V and Queen Mary were formally crowned with impressive ceremonies in Westminster Abbey on June 22. The coronation festivities extended over the greater part of June and July and attracted thousands of sight-seers. The sovereigns made visits to Ireland and Scotland in July; and the investiture of the prince of Wales took place in Carnarvon Castle on July 13.

IMPERIAL CONFERENCE.—The regular conference of the heads of the self-governing colonies was held in the last week of May and through-

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out June in connection with the coronation festivities. Canada was represented by Sir Wilfrid Laurier and two of his ministers; Australia by Premier Fisher and two of his ministers; New Zealand by Premier Sir Joseph Ward and one member of his cabinet; South Africa by General Botha, prime minister, and two members of his cabinet; and Newfoundland by Sir Edward Morris, the premier, and his colonial secretary. The program of the conference embraced a wide variety of topics, including imperial interchange of civil servants, currency and coinage; the Declaration of London; the "All Red Route"; the imperial wireless telegraph system; labor exchanges in relation to the Dominions; emigration; and coöperation between the naval and military forces of the empire. The conference, early in its sessions, rejected Sir Joseph Ward's scheme for the creation of an Imperial Council representing all the "Britains oversea." Premier Asquith offered to admit colonial premiers to sittings of the Imperial Council of Defence and promised to submit to the high commissioners and agents-general all matters of imperial interest that affected the Dominions. The Declaration of London was approved. The next conference will be held in 1915.

THE UNITED KINGDOM.—The ministry continued to press the passage of the **Veto Bill.** (For its provisions, see the RECORD of June, 1910, p. 380). In May it passed its third reading in the Commons by a vote of 362 to 241 and was introduced into the House of Lords by Lord Morley. As soon as the coronation ceremonies were past, the struggle between the two houses became acute. On July 21, Mr. Asquith informed the Conservative leader, Mr. Balfour, that the government had authority to pass the bill without the Lords' amendments by invoking the royal prerogative. The premier endeavored to make a similar statement to the Commons on July 24, but part of the opposition refused to hear him and the debate was adjourned by the speaker amid great disorder. In the Unionist Party there was a sharp divergence of opinion as to the tactics to be followed; Lord Lansdowne and Mr. Balfour advised acceptance of the bill, in order to avoid the creation of additional peers, contenting themselves with a motion to censure the government for misuse of the royal prerogative; but an influential section followed the lead of Lord Halsbury in a policy of "no surrender." On August 7, the prime minister succeeded in making his statement regarding the advice to the sovereign as to the creation of peers, and the Commons defeated Mr. Balfour's vote of censure by a majority of 119. The next day the vote of censure was carried in the Lords by 282 votes to 68, and the Commons rejected the Lords' amendments to the Veto Bill. After final discussion in the Upper House it was carried on August 10 by 131 votes to 114, thirty-seven Unionist peers voting with the government against Lord Halsbury. The royal assent to the bill was given on August 18.—Mr. Asquith announced that comprehensive workingmen's insurance measures would be presented to Parliament, and after that an Irish home-rule bill. Already, on May 4, Mr. Lloyd-George, the chancellor of the exchequer, had presented to the Commons the **National**

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Insurance Bill, by which insurance against sickness would be compulsory on the part of all wage-earners with an income of less than $800 a year, excepting persons over sixty-five, who might come under the old-age pension act. The bill provided also for the care of soldiers, sailors, teachers, civil servants and casual laborers. A plan for insurance against unemployment, likewise compulsory, was to be applied at first only to the building and engineering trades. It was believed that these insurance proposals would not meet with serious opposition from any political group.—The chancellor of the Exchequer, in making his **budget** statement for 1911–12 on May 16, declared that no additional taxes would be required, and that provision had been made to pay members of Parliament an annual salary of $2000. Several members refused to accept their salary checks.—**Labor troubles** were prevalent throughout the summer months. On June 14 the signal for the long-threatened international strike of seamen was given at meetings held at most of the ports of the United Kingdom. Rioting and violence were reported during July from Manchester, Hull, Liverpool, Cardiff and Glasgow; by August 1 work at the port of London and at the great wholesale houses was completely paralyzed; it was estimated that over 100,000 men were idle. On August 17 a general railway strike was declared, and two days later 200,000 employees were out. A settlement was effected in the railway strike through the mediation of the government, and most of the men returned to work on August 21. The seamen's strike was ended with substantial gains for the employees. Close upon the heels of the strike riots came anti-Jewish outbreaks in several towns in Monmouthshire, in which shops were pillaged and Jews were mobbed, and the streets were cleared only with soldiers' bayonets.—The bill giving women the right to vote passed its second reading in the Commons on May 5, by 255 to 88. Some 40,000 women took part in a picturesque pageant of **woman suffragists** in London on June 17. It was announced that the funds of the movement on hand amounted to $500,000.—An effort in September to carry out a general railway strike in **Ireland** proved abortive. A monster demonstration of Orangemen against Irish home rule took place at Belfast on September 23. The Estates Commissioners for Ireland reported in October that in the last financial year they had advanced, in direct and indirect sales under the Land Purchase Act of 1903, $36,000,000. The total amount advanced for sales since November, 1903, had reached $205,000,000, and 2830 evicted tenants had been reinstated.—The decennial **census** returns, published in June, showed the population of the United Kingdom to be 45,216,741, a rate of increase for the decade of 10.91 per cent, the lowest recorded since the first general census in 1801. England and Wales showed an increase of 3,547,426; Scotland, of 287,418; while Ireland decreased by 76,824. The population of Greater London was placed at 6,581,402, an increase of 10.20 per cent.

CANADA.—**Parliament** adjourned on May 19 until July 18 without taking action upon the Banking Bill or upon the reciprocity agreement with the

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United States (see *supra*, pp. 739, 742, 743). The temporary tariff convention with Japan passed the Commons on the last day of the session.—When the American **reciprocity** arrangement was introduced in Parliament in July, the government encountered such strenuous opposition on the part of the Conservatives that Sir Wilfrid Laurier, the premier, advised the governor-general to prorogue and dissolve the eleventh Parliament and to fix the time for nominations for the new House on September 4 and for the pollings on September 21. Not since 1896 had Canada witnessed such a determined electoral struggle. Reciprocity was practically the sole issue; and while the ministry expected some loss in industrial communities, it counted on decided gains in agricultural districts. The Liberals urged the material advantages of the agreement; the opposition denied these advantages and denounced the compact as inimical to the commercial unity and national independence of Canada, as a movement towards union with the United States and a long step towards separation from the Empire. There was great confusion and uncertainty in Quebec, where the Nationalists, under the lead of Mr. Monk and Mr. Bourassa, made common cause with the Conservatives.—The result of the **elections** was a complete reversal of the state of parties which had existed for fifteen years. The Liberal membership in the Commons was reduced from 131 to 80; the Conservative membership was increased to 126; while the Nationalists won eight seats in the province of Quebec. Thus the opposition, including Conservatives and Nationalists, secured a parliamentary majority of 54. A Labor candidate was returned from Quebec and a Socialist from British Columbia.—In August, before the elections, Mr. Brodeur had resigned from the ministry of Marine to take a seat on the Supreme Court bench; after the elections the entire Liberal cabinet resigned. The **new cabinet** of Mr. R. L. Borden, which assumed office on October 10, was constituted as follows: Mr. Martin Burrell, Agriculture; Mr. J. D. Reid, Customs; Mr. W. T. White, Finance; Mr. W. B. Nantel, Inland Revenue; Mr. R. Rogers, Interior; Mr. C. J. Doherty, Justice; Mr. T. W. Crothers, Labor; Mr. J. D. Hazen, Marine and Fisheries; Colonel S. Hughes, Militia; Mr. L. P. Pelletier, Posts; Mr. F. D. Monk, Public Works; Mr. Frank Cochrane, Railways and Canals; Dr. W. J. Roche, State; Mr. G. E. Foster, Trade and Commerce. Six cabinet officers are from Ontario and four from Quebec. Several shades of opinion are represented: Mr. White is an insurgent Liberal, Colonel Hughes the leader of the Orange Conservatives, and the Quebec members all incline toward Nationalism and oppose the naval policies.—The Duke of Connaught, the new **governor-general**, disembarked at Quebec on October 13.—The results of the **census**, published in October, showed a total population of 7,100,000, the greatest increase being in the western provinces. Within the decade, Saskatchewan grew from 91,000 to 453,000; Alberta from 73,000 to 373,000; British Columbia from 178,000 to 363,000; and Manitoba from 255,000 to 455,000. Among the cities, Montreal increased from 266,000 to 466,000 and Toronto from

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208,000 to 376,000. The maritime provinces were either stationary or showed a loss of population.—Sir James Whitney on October 11 announced a general election for **Ontario**, to be held the first week in December.

AUSTRALIA.—The results of **referenda** upon important constitutional questions were complete early in May. A proposal to give the federal Parliament power over all matters of trade, commerce and industry within the Commonwealth was negatived by a vote of 443,000 to 687,000. A second proposal, for the nationalization of monopolies and the grant of power to the federal government to enter upon just terms into possession of any enterprise officially declared by Parliament to constitute a monopoly, was also rejected, by a vote of 446,000 to 682,000. Western Australia was the only state in which the proposed amendments were carried. Mr. Fisher, the premier, declared that the measures would later be resubmitted. —Lord Denman, the new governor-general, in opening the **federal Parliament** at Melbourne on September 5, stated that good progress had been made with the preparations for establishing the federal capital at Yass-Canberra and announced measures for creating a Commonwealth Bank, for amending the Conciliation and Arbitration Act, and for constructing a transcontinental railway. He urged greater control of trusts by the federal government and stated that general consideration would be given to workingmen's insurance.—On July 1 the era of compulsory **military** and **naval** service was inaugurated: 105,000 boys between the ages of 14 and 18 came under immediate discipline.—The government of **New South Wales**, having lost its majority in consequence of the withdrawal of the support of the Independents and the resignation of two Labor members who disagreed with its land policy, resigned in July. The cabinet was reconstructed; and at the opening of Parliament on August 23 it promised amendment of the electoral law, readjustment of electoral boundaries and the execution of urgent public works.—State elections in **Western Australia** returned a Labor majority of ten and brought about the downfall of Mr. Frank Wilson's government.—In **South Australia**, the Assembly on August 8 passed by 21 votes to 15 a Veto Bill, introduced by the government with the object of restricting the power of the upper house, and containing provisions similar to those of the Veto Bill passed in the United Kingdom. The Council rejected the bill on September 13 by 10 votes to 4.

NEW ZEALAND.—**Parliament** opened on August 27. In view of the near approach of the general elections, little legislation was expected. Bitter attacks were made on Sir Joseph Ward, the premier, for accepting a baronetcy, and on Sir John Findlay for his acceptance of knighthood. A member of the opposition gave notice of a bill to prevent the establishment of hereditary titles in the Dominion.—Mr. Fowlds resigned in September as minister of Education, Immigration and Customs, and it was reported that he would found a **third party**, composed mainly of Prohibitionists and Laborites.—The **budget** for 1912 estimated the revenue at $55,000,000.

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SOUTH AFRICA.—A settlement of the **Asiatic immigration** troubles was reported by General Botha, the premier, in May: (1) Asiatics who had not applied for registration would receive an additional term of six months in which to conform to the law; (2) those deported in 1907 and 1908, who were otherwise entitled to register, would be permitted to return and register within six months; (3) six educated Indians would be admitted annually to South Africa without registration; and (4) all well-known and well-educated Asiatics would be exempted from giving their thumb-prints.—Racial troubles and **labor disputes** were rife throughout the Union during the summer months. There were serious printers' strikes at Cape Town against the employment of non-unionists, and a street-car strike in Johannesburg.—Lord Gladstone, the governor-general, in a first visit to **Rhodesia** in September, expressed the hope that in the near future the southern part of that territory would be included in the Union.

INDIA.—The **Bengal conspiracy case**, which had been pending since August, 1910, in which forty-two men were charged with conspiracy to wage war against the king, Pulin Behari Das being the alleged leader, was heard before the assessors, who in June returned a verdict of "not guilty." In August, however, the extra-sessions judge at Dacca reversed this judgment and sentenced three of the accused to life exile, seventeen to ten years' imprisonment and one to three years' imprisonment.—Several outrages were reported in June from Madras and from Eastern Bengal.—In July, Lord Crewe sanctioned the despatch of an expedition to punish the **Abor tribe** for the murder of British travelers on the Assam frontier in April; and in October a force of 2000 started up the inland waterways.—Sir Edward Baker, who sailed from Calcutta July 13 on four months' leave of absence, resigned his office of lieutenant-governor of **Bengal** in October.—The Nizam of **Hyderabad**, the most distinguished of all the ruling chiefs and a firm friend of the British, died at Simla on August 29.

MALTA.—Six of the eight elected members of the Maltese Council resigned, in August, in consequence of the governor's refusal to support their petition for a higher degree of self-government. The petition, which was forwarded to London, requested an elective majority in the legislature, in order that the Maltese might have a real control of purely local affairs and expenditures.

V. CONTINENTAL EUROPE

FRANCE.—The **ministry** of M. Monis (see last RECORD, p. 374) proved short-lived. Its efforts to fix finally the limits of the champagne districts by distinguishing between a first-grade and a second-grade zone, incorporating the greater part of the Aube in the latter, led to serious rioting during May and June. Then too, the policy of proportional representation to which M. Monis had committed himself, and which in theory was accepted by the majority of the Deputies, could not be formulated in a practical scheme that would ensure the support of all the groups on which

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the premier's control rested. Again, the Moroccan trouble with Germany (see *supra*, p. 736) and the attendant war scare caused the government to urge the appointment of a generalissimo over the entire army, which was strongly condemned by the Socialists and by others who feared undue military influence. The cabinet lost one of its most able members in M. Berteaux, minister of War, who was accidentally killed by an aeroplane on the aviation field at Issy-les-Moulineaux on the morning of May 20; and the premier himself was seriously injured at the same time. At length, on June 23, on the question of a general-in-chief for all the French armies, the ministry was defeated in the Chamber by 248 votes to 224, and promptly resigned. The Finance minister, M. Caillaux, formed a **new ministry**, assuming the portfolio of the Interior himself; the other members were: M. Cruppi, Justice; M. de Selves, Foreign Affairs; M. Messimy, War; M. Delcassé, Marine; M. Klotz, Finance; M. Couyba, Commerce; M. Augagneur, Public Works; M. Pams, Agriculture; M. Steeg, Public Instruction; M. Lebrun, Colonies; and M. Réné Renoult, Labor.—The new government at once confronted the difficulties that had led to the overthrow of its predecessor. On the military question a compromise was effected in July, whereby the commander-in-chief of the northeastern group of armies would be invested with the title of chief of the general staff of the army, while the functions of that office would be actually exercised in times of peace by another officer with the title of chief of the staff of the army. General Joffre was appointed to the former, and General Dubail to the latter position. The premier used a strong arm in suppressing the disturbances in the champagne area as well as against the continued outbreaks of *sabotage* on the railways. On July 10, several Socialist deputies attempted to organize a demonstration in the Chamber in favor of the reinstatement of dismissed railway strikers, but M. Caillaux remained firm. The budget for 1911 was voted by both houses on July 12, passing the Chamber of Deputies by 458 votes to 88. The budget for 1912 showed a total estimated expenditure of $900,000,000, including increases of $10,000,000 for workmen's insurance, $7,000,000 for public works, $5,000,000 for posts and telegraphs, $4,000,000 for the army and $2,000,000 for the navy. The Finance minister recommended that the deficit be met by a duty on gas and electric-light burners, by a tax of five per cent on bourse transactions and by calling upon the Eastern Railway to repay an increased proportion of the funds advanced by the state in less prosperous years.—Serious **strikes** in the building and allied trades occurred at Paris in July; and throughout August and September there were repeated **food riots** in the larger towns of northern France.—After stormy sessions, the railway men in August dissolved the National Union and formed a National Federation, decentralization being the essential feature of the reorganization.—The trial of prisoners arrested in connection with the champagne riots in April was concluded on August 15. Of the thirty-three accused, twenty-seven were acquitted and six were condemned to terms of imprisonment

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varying from four years to one month.—The report of the special **navy** committee of the Chamber of Deputies, published in August, asserted that France must regain her lost position as the world's second greatest sea power. The accompanying program provided that the effective strength of the French fleet in 1920 should be 28 battleships (six of the Patrie type, six of the Danton type and 16 improved dreadnoughts) to be built at the rate of two a year, 10 scout cruisers, 52 ocean-going torpedo-boats and 94 submarines. In addition, provision should be made for a permanent over-sea fleet of ten vessels. The minimum cost of the new program was estimated at $180,000,000. The battleship "Liberté" caught fire in Toulon harbor on September 25 and blew up, damaging several other warships and killing over 200 officers and men.—M. Duez, the former liquidator of the French religious orders, was found guilty of embezzling public funds and was sentenced in June to twelve years' penal servitude.—After an arduous march through hostile country, Colonel Largeneau, who succeeded the late Colonel Moll as commander of the French forces in the Chad military district, entered Abeshr in the **Wadai** on June 23 and established a fortified post. It was reported in September that the subjugation of the outlying region was proceeding rapidly.

GERMANY.—The Alsace-Lorraine Constitutional Bill (see last RECORD, p. 375), passed the **Reichstag** in May. The Conservatives had prepared several amendments intended to draw the Center away from the Liberals, but were beaten two to one. The clause dealing with the votes in the Bundesrath was carried by 200 to 112. A Workmen's Insurance Bill, consolidating and amending the law, was read a third time on May 30 and was passed 232 to 58, the minority being composed of Socialists and one or two Radicals. Consideration of other important legislation by the Reichstag was postponed pending the new elections in January.—The annual report of the **Socialist party**, published in June, declared that the membership of the party had increased during the year from 730,038 to 835,362, and that its revenue amounted to $325,000. The Socialist Congress at Jena in September unanimously adopted a resolution protesting against any attempt to provoke a war between the German, British and French peoples. —The annual meeting of the **Navy League** at Nuremberg on May 28 resolved itself into a demonstration in favor of the addition from 1912 onwards of one large cruiser a year to the number included in the official program of construction. The tenth German dreadnought, christened "Friedrich der Grosse," was launched at Hamburg on June 10.—The municipality of Berlin in June contracted a loan of $80,000,000 for public improvements.—The announcement in September that the under-secretary of state in the Ministry of Education, Dr. Schwartzkopf, had been appointed to succeed Herr von Waldow as Ober-Präsident in Posen was taken to mean that milder methods were to be followed in dealing with the Poles.

AUSTRIA-HUNGARY.—The Joint Army Bills were published in May, the chief features being the increase of the annual contingent of recruits

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from 103,000 to 212,000, and of the total peace strength of the army from 310,000 to 425,000. In September the emperor-king accepted the resignation of General Baron von Schönaich, Austro-Hungarian minister of War, and appointed as his successor General von Auffenburg, hitherto commandant of the Sarajevo army corps. It was rumored in the press that von Schönaich's retirement was due to a serious conflict of opinion between himself and the heir apparent, and that it would strengthen the spirit of opposition to all military measures, already noticeable in the Hungarian Parliament.—In **Austria**, the general elections to the Reichsrath, begun on June 13, resulted in the defeat of the Christian Socialists and brought about the resignation of Baron von Bienerth's cabinet. Baron von Gautsch, representing the Moderates and less unpopular with the Czechs, succeeded to the premiership.—On September 17 Vienna was the scene of a demonstration of revolutionary character; sanguinary scenes followed a mass meeting of Social Democrats to protest against the increased cost of living and the scarcity of dwelling-houses. Fighting occurred in the streets, and ninety casualties were reported. Severe sentences were passed by the courts upon the rioters.—The opening of the autumn session of the new Chamber on October 5 was marked by stormy incidents. After an initial scuffle over the closing of Czech schools in Vienna, a Socialist deputy, Dr. Adler, strongly denounced the government's policy in regard to the costliness of living and the recent food riots, and a Dalmatian workman from the gallery made an unsuccessful attempt to assassinate Dr. von Hochenburger, the minister of Justice. Baron von Gautsch, finding himself unable to unite the factions in the Reichsrath on any vital program or to allay the harsh criticism of the Socialists, presented the resignation of his whole cabinet on October 31. The minister of Public Worship, Count Karl von Stürgkh, was entrusted by the emperor with the formation of a new cabinet.

RUSSIA.—M. Stolypin, the premier, explaining before a crowded **Duma** on May 10 why he had applied the emergency clause to enact by proclamation the Southwestern Zemstvo Bill (see last RECORD, p. 377), declared as a general principle that his government would not use this power in respect of any measure which had not been previously sanctioned by the Duma and rejected by the Council of the Empire. Loud cheers from the Nationalist benches greeted his statement that the members of the Council of the Empire were not representatives of the nation but rather of class interests.—The Duma in May voted $75,000,000 for immediate shipbuilding in the Black Sea and an equal sum for the Baltic. The **Naval Bill**, giving effect to the program of construction published in July, declared that the command of the Baltic must be regained and provided for a Baltic fleet of two squadrons, each comprising eight battleships, four armored cruisers, eight cruisers, 36 destroyers and 12 submarines; the Black Sea fleet, of secondary importance, was to be half as strong again as any possible combination of fleets in those waters; the new base in the Baltic was to be ready to receive the first squadron in 1918 and would be doubled in size by 1924

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when the second squadron would be completed.—According to financial reports to the Duma on September 8, the **national debt** would be reduced on January 1, 1912, by about $37,500,000.—**M. Stolypin**, while attending a gala performance in company with the tsar, in the theatre at Kieff, on September 16, was shot by a converted Jew named Bogroff, once a terrorist and at the time of the crime a police agent, and died two days later. A ukase of September 22 appointed M. Kokovosoff premier with the portfolio of Finance. The **new premier** announced that there would be no noteworthy changes in policy.—In a trial of army commissariat officials on charges of peculation, judgment was rendered on July 17. Five of the accused were sentenced to loss of rank and three years' imprisonment, others to varying lesser terms of penal servitude.—Mass meetings were held in August and September all over the **Finnish** province of Viborg protesting against the decision of the Russian government to incorporate the two maritime communes in the jurisdiction of St. Petersburg. The measure, which would immediately affect about 31,000 Finnish citizens, was declared by the premier to be purely for naval and strategic purposes. The governor-general of Finland forbade the holding of an international conference of the Young Men's Christian Association at Helsingfors and ordered the dissolution of the Finnish Boy and Girl Scout organizations.

SPAIN.—In the **Cortes** in June discussion of the **Religious Associations Bill** was accompanied by lively scenes between Carlist and Liberal deputies. Final consideration of the matter was deferred until autumn.—Strikes and **riots** were reported in September from cities all over the country, the workmen on the Basque railways and in the collieries being the first out. There were repeated conflicts with the police; business was at a standstill; and the situation was aggravated by the fact that a large proportion of the army was in Morocco. Martial law was declared on September 12 in Bilbao, and on the 19th King Alphonso signed a decree proclaiming martial law throughout the entire kingdom. The government of Señor Canalejas hurried large forces of loyal troops to Madrid and Barcelona and into the Basque territory, so that by the end of the month the authorities had the situation thoroughly in hand.

PORTUGAL.—The new republic, while devising a permanent organization, had to face a monarchist uprising, ecclesiastical difficulties and serious labor disturbances. For the elections to the **Constituent Assembly**, which were held on May 28 under the auspices of the provisional government, no monarchist candidates presented themselves as such; the republicans therefore swept the country.—A decree of the provisional government outlined the work of the Constituent Assembly as (1) definition of the political powers of the republic; (2) establishment of the organic law of each one of these powers, including an electoral law; (3) ratification of the acts of the dictatorship and of the provisional government, and (4) adoption of a budget. The first act of the Assembly, upon its assembling on June 19, was to declare the monarchy abolished, the royal family of Braganza banished

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and the republic in force. The constitutional draft presented on July 3 provided for a legislative body of two chambers, one elected by universal manhood suffrage, the other indirectly by municipalities; for a president of the republic, to be elected by both chambers with a mandate for four years and to be ineligible for reëlection; for a ministry responsible to parliament; and for the responsibility of both ministry and president to a high court of the republic, consisting of the supreme court and a jury of 21 chosen from the two houses. For the **presidency** of the republic the Advanced Republican group supported Dr. Machado, minister of Foreign Affairs in the provisional government; an opposition block of Moderates nominated Dr. Manoel Arriaga, a journalist and orator of note; on August 24 the assembly elected Dr. Arriaga by a vote of 121 to 86. The cabinet that was to be substituted for the provisional government was definitely formed on September 5: Senhor Chagas, premier and minister of the Interior; Dr. Mello Leotte, Justice; Dr. Duarte Leite, Finance; General Castro, War; Senhor Menezes, Marine; Dr. Celestino Almeida, Colonies; Dr. Vasconcellos, Foreign Affairs; and Dr. Paes, Public Works. While the premier announced a policy of conciliation, it was obvious that there were serious differences between the Moderates and the Radicals, particularly in their respective attitudes toward the prevailing unsettled financial conditions and the recurrent labor troubles at Lisbon. A breach, however, was avoided, or postponed, because of the necessity of presenting a united Republican front to the Clericals and Monarchists.—Following an agreement among the overwhelming majority of the Catholic priests and bishops to decline the pensions offered by the government and to demand for the **Church** in Portugal the same privileges that it enjoys in the United States, Brazil and Switzerland, the pope on May 21 issued the encyclical *Jamidudum*, deploring the anti-religious efforts of the Portuguese republic, the violent expulsion of the religious orders, the suppression of church festivals, of the religious oath and of religious instruction in the schools, the introduction of divorce, the arbitrary dismissal of the bishops of Oporto and Beja, and the whole oppressive Separation Law, which he formally condemned as void and invalid against the inviolable rights of the Church. The republic replied by confiscating government securities held by the clergy, chiefly as legacies, amounting to more than $25,000,000. Notwithstanding repeated offers made by the ministry, the Portuguese clergy persisted in refusing its financial assistance; in September the pope announced that temporarily the Vatican would grant small pensions to needy Portuguese clerics.—Both the unrest of the labor class and the opposition of the ardent Catholics were used by the **Monarchists** to promote their interests. A considerable number of arrests was reported in the course of the summer from Lisbon, Oporto, Coimbra and Figueira; and the government in July concentrated military forces at Braga to resist an expected invasion by Monarchist refugees in Galicia. On September 30, anti-republican demonstrations took place at Oporto and Villa Nova, but the troops remained

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loyal and the movement was speedily checked. About a thousand Monarchist refugees under Captain Paiva Couceiro entered Portugal near Vinhaes on October 5, part of the population in several northern communes rose in favor of the monarchy, and small guerilla bands were formed to assist the Royalist movement. Victories of the republican forces were reported from Lisbon in censored despatches.

ITALY.—Other political events were dwarfed beside the summer's celebration of the fiftieth anniversary of the establishment of the Italian kingdom and the outbreak in September of war with Turkey (see *supra*, p. 735). An imposing national monument to Victor Emmanuel was unveiled at Rome on June 4.—**Parliament** passed the budget in May by 212 votes to 52. An important bill, instituting a national system of **insurance**, was presented on June 3 by Signor Nitti, minister of Agriculture. It provided that within a fortnight of its enactment all private life-insurance companies, whether Italian or foreign, should close their books and no further insurance should be written or business done by them. On July 8 the Chamber passed a vote of confidence in the ministry and agreed to postpone discussion of the Insurance Bill until the autumn session in November. Signor Giolitti, the premier, claimed that the ministry was on the side of democracy and asserted that the opposition favored capitalist interests.—The **Socialists** protested vigorously against the Tripolitan War, but their demonstrations were sternly suppressed and proved ineffectual in face of the almost universal enthusiasm of the nation.

TURKEY.—An open rupture occurred in May between the two groups into which the Central **Committee of Union and Progress** had split. The insurgent or radical faction forced the resignation of three ministers, including Djavid Bey and Emrullah Effendi, ministers of Finance and of Public Instruction. Nail Bey, who served as minister of Public Instruction in the Hilmi cabinet, was appointed minister of Finance. Political extremists were generally believed to have instigated the assassination on July 10 of Zeki Bey, chief secretary in the Public Debt Administration and a prominent reactionary journalist, whose paper, the *Shahrah*, lost no opportunity of attacking the Committee of Union and Progress.—A **foreign loan** of $175,000,000 was negotiated in July through French capitalists by the Imperial Ottoman Bank. Of the proceeds it was planned to spend $100,000,000 on the construction of two railways: one, the Danubo-Adriatic, to run from Merdare to Port Medua and Skutari *via* Prishtina, Prizrend and Dibra; and the other, the South Albanian, from Monastir to Tchamlik on the Adriatic coast north of Preveza *via* Resua and Yanina. Valuable concessions were granted in August to British capitalists for the construction of ports at Samsun and Trevizond.—Renewed disorder among the Arab bands in the **Yemen** (see last RECORD, p. 379) compelled the government to despatch eight battalions of redifs from Adana to reinforce the troops at the front. Abha, which had been closely besieged, was relieved by the shereef of Mecca on July 17, and by September 1 nearly all

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the sheikhs had made their submission.—Against the revolting **Albanian** tribesmen, the Turks renewed military operations on May 15. The strong Catholic tribe of the Mirdites proclaimed its autonomy, and several thousands of the Malissores carried on guerilla warfare either from their mountain fastnesses or from the vantage ground of Montenegrin soil. In July, Abdallah Pasha succeeded Torgut Shevkat Pasha in command of the Ottoman troops and offered to the revolting tribesmen guaranty of all their local privileges, good local government, a general amnesty and the expenditure of $50,000 to repair damages. By the end of August, most of the Mirdites and Malissores had accepted the terms and returned to their homes; but in the autumn uprisings were reported among the Mohammedan Albanians in the districts of Rozaj and Djakova.—The Young Turk party assumed an aggressive attitude in the events leading up to the Tripolitan War with Italy (see *supra*, p. 735), and its leaders unanimously opposed any alienation of Turkish territory. The cabinet resigned on September 29, Hakki Pasha shouldering entire responsibility for the war. Said Pasha, president of the Senate, was appointed his successor as grand vizier, and Assim Bey became minister for Foreign Affairs. In political complexion the new ministry differed little from its predecessor.

OTHER EUROPEAN STATES.—The **Swedish** general election, conducted for the first time on a system of proportional representation, resulted in September in the defeat of the Conservatives and the victory of the Liberals and the Social Democrats, the latter group more than doubling its numbers. The final returns showed 100 Liberals, 65 Conservatives and 65 Social Democrats. M. Lindman, the Conservative premier, resigned, and a Liberal cabinet was formed: M. Carl Staaf, premier; Count Ehrensvaerd, Foreign Affairs; M. Schotte, Interior; M. Sandstroem, Justice; Baron Adelsvaerd, Finance; M. David Bergstroem, War; M. Jacob Larsson, Marine; Dr. Fridtjov Berg, Public Worship and Instruction; and M. Alfred Petersson, Agriculture. The Liberal leader, hoping to secure additional support in the upper house, announced that it would be dissolved before the meeting of Parliament in January. Some 40,000 Swedish workingmen were affected in July by strikes and lockouts in the building trades.—Serious riots in connection with the **Dutch** shipping strike called out large detachments of troops, until in July Amsterdam had the appearance of a besieged town. An Anti-Gambling Bill was enacted in May.—In **Belgium**, in consequence of the uncompromising opposition of the Radicals to the new Education Bill, which was supposed to be rather favorable to Catholic interests, a cabinet crisis occurred on June 8. Baron de Broqueville, former minister of Railways, managed to organize a new Clerical ministry with M. Davignon in charge of Foreign Affairs; M. Hubert, Labor; M. Berryer, Interior; M. Renkin, Colonies; General Hellebaut, War; M. Levie, Finance; M. Carton de Wiart, Justice; M. Van de Vyvere, Agriculture and Public Works; and M. Poullet, Science and Arts. On August 15 a great demonstration of Liberals and Socialists was held at

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Brussels to protest against the Education Bill. It was stated that 150,000 attended and took the oath: "The workmen and democrats of Belgium assembled in solemn demonstration swear to struggle ceaselessly until the final withdrawal of M. Schollaert's bill, and until they obtain universal suffrage, one man one vote, and compulsory education." The communal elections in October gave large gains to the Liberal and Socialist allies; even the Clerical leader, M. Schollaert, was defeated in the Clerical stronghold of Louvain. The government strengthened the Belgian defences in August. In September food riots were reported from several towns, notably Charleroi.—After having been eleven years before the **Swiss** Federal Parliament, the bill for compulsory insurance against sickness and accident passed the Ständerat, or upper house, on June 14 unanimously, and on the same day it passed the Nationalrat, or lower house, by 136 votes to 12. Provision was made for a referendum. A bill dealing with the same matter was rejected by a large majority on a referendum in May, 1900. The building trades were affected during May and June by strikes at Zurich, Geneva, Montreux and other centers.—After exceedingly violent debates, during which charges of corruption in connection with the state monopoly loan of 1901 were made against the king, the **Bulgarian** Sobranye adopted in July article 24 of the Consolidation Bill, vesting the succession to the throne in King Ferdinand's first-born male descendant, and article 25, dealing with the civil list. In October Crown Prince Boris was betrothed to the Grand Duchess Olga, eldest daughter of the tsar of Russia. —The work of revising the **Greek** constitution, a result of the military revolution of August, 1908, was completed in June, and the new instrument was adopted in its entirety by the whole Chamber. M. Venezelos, the premier, declared that the changes were intended to check the influences most harmful to judicial and administrative reform, to ensure the efficiency of military and naval reorganization, and, by establishing a council of state, to regularize the working of constitutional institutions.

VI. ASIA AND AFRICA

CHINA.—An edict of May 8 abolished the Grand Council, the Grand Secretariat, the Commission of Constitutional Reform and two obsolete ministries, and created in their place a **cabinet** on the European plan, with Prince Ching as prime minister and Natung and Hsu-Shihchang as vice-ministers, the first two being Manchus and the third Chinese. The edict formally constituted a general staff, under the princes Tsai-tao and Yu-lang, both Manchus; also a Privy Council, under a Chinese septuagenarian scholar as chancellor and an energetic Manchu as vice-chancellor. The unparalleled preponderance of Manchus in high office elicited much adverse criticism. On May 28, the postal service was transferred from the Customs Service to the Yu-chuan-pu, or Ministry of Communications. Li Ching-fang was named titular head and M. Théophile Piry administrative head of the new department. In May, for the first time in history, a medical degree was granted by the Chinese government.—Apparently in consequence of the increasing friction between the Chinese and the

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Manchus and the conviction of leaders among the former that the latter were not hastening the reform movement in the empire, and following closely upon a period of general lawlessness in the province of Szechuan, a patriotic and radical **revolt** broke out in southern and central China in October. On the tenth, the viceroy at Wuchang reported to Pekin the discovery of a treasonable plot and the execution of four ringleaders. The next day, the viceroy's troops mutinied and forced him to take refuge on a Chinese gunboat. On the twelfth, some 6000 Chinese troops mutinied at Hankau, killed 300 Manchus and occupied the city; and General Li Yuen-heng, leader of the rebel forces, solemnly proclaimed the overthrow of the Manchu dynasty, the establishment of a republic under his own presidency and the protection of foreigners. Government troops, hurried to Hankau, suffered defeat; and by November 4 the revolt had spread throughout central China, including such important treaty ports on the lower Yangtze as Kiukiang and Nganking, capital of the province of Nganhwei; southward, the rebels held Changsha, the capital of the province of Hunan, and Nauchang, capital of Kiangsi; even northward, the danger zone included Singan, capital of the province of Shensi, about 600 miles southwest of Pekin. It was reported on November 7 that the Amoy governor had fled, Shanghai was in a state of anarchy and Canton had hoisted the revolutionary flag. Meanwhile, the **National Assembly** met at Pekin and forced the government to grant immediately a liberal constitution and to guarantee the election of a parliament with full powers, amnesty to the rebels, the restoration of certain persons to office and the retirement of objectionable ministers and viceroys. Prince Ching resigned the premiership, and on November 7 the National Assembly elected to succeed him Yuan-Shih-Kai, the administrator and statesman who was removed from office in 1909.

JAPAN.—The **ministry** of Prince Katsura retired in August. The premier had encountered no little opposition from the press, which generally blamed him for strengthening the upper house and the bureaucracy; and just before his resignation, he issued a statement to the effect that he had completed all the tasks contemplated when he entered into office, of which the principal had been an increase in the sinking fund, an extension of the period of the program of naval increase, the conversion of the national debt, abstention from contracting fresh obligations and from increasing taxation, arrangement of the question of the railway gauge and the negotiation of new reciprocal tariffs. The **new cabinet** was announced on August 30: Marquis Saionji, premier; Mr. Hara, Home Affairs; Mr. Yamamoto, Finance; General Ishimoto, War; Baron Saito, Navy; Mr. Makino, Agriculture and Commerce; Count Hayashi, Communications; Mr. Matsuda, Justice; Mr. Haseba, Education; Baron Uchida, hitherto ambassador to the United States, Foreign Affairs. The new prime minister disclaimed any intention of fundamentally changing the government policy, which, he said, would continue to seek on traditional lines the enhancement of the national credit and the development of the national industries. It was his purpose not materially to change the budget of 1911.

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PERSIA.—After protracted opposition, the large British loan passed the **Mejliss** on May 1. Dissensions in the cabinet on the question of its expenditure further confused the political situation, and the ministers of the Interior and of Finance resigned. A **new ministry** was formed in July as follows: Samsam-es-Sultaneh, premier and minister of War; Voosoogh-ed-Dowleh, Foreign Affairs; Ghavam-es-Sultaneh, Interior; Hakim-ul-Mulk, Finance; Debir-ul-Mulk, Posts and Telegraphs; Ala-es-Sultaneh, Public Instruction. The Mejliss on June 13 confirmed an important ministerial proposal according extensive powers to Mr. Morgan Shuster, the American treasurer-general, to supervise the expenditure of the new loan. —In July, the **ex-shah**, Mohammed Ali, landed at Gumesh Tepe and proceeded to Astrabad, declaring that he had come to restore his rightful rule in Persia. His brother, Salar-ed-Dowleh, who was at Senna, at once joined him with several thousand Turcomans. On the other hand, the Mejliss placed a price of $150,000 on the ex-shah's head and sent an army against him. A decisive victory was gained for the Mejliss troops on September 5, and the next day the captured rebel chief, Arshad-ed-Dowleh, was shot. Salar-ed-Dowleh was defeated at Baghishah on September 27 and fell back on Hamadan, which, in turn, was occupied by government troops on October 6. By November 1, the operations of the ex-shah and his few Turcoman followers had been confined to the mountains of the north.—The Mejliss on October 3, on the advice of Mr. Shuster, reversed its previous action and sanctioned the appointment of Mr. New, an Englishman, to control the financial affairs of the ministry of Posts and Telegraphs.

MOROCCO.—The excuse for French armed penetration into the country and the military occupation of Fez in May was the rise of another pretender, Mulai el Zin, against Sultan Mulai Hafid. Mulai el Zin was forced to withdraw from Fez and was besieged in Mekinez, where he surrendered to the French and Moroccans on June 8. In the same month, the pretender Tazzia was defeated south of Alcazar and his followers dispersed. Continued unrest of native tribesmen afforded ample opportunities for further French and Spanish aggressions and for the German landing at Agadir (see *supra*, pp. 736, 737).

ABYSSINIA.—It was reported in May that Lidj Jeassu, the grandson of Emperor Menelek, had been proclaimed sovereign and that Ras Olie, the brother of Queen Taitu and rival claimant for the throne, had been condemned to death for high treason. In July and September, the troops of Ras Michael, the father of Lidj Jeassu, had somewhat the better of those commanded by Ras Olie.

EGYPT.—In July Lord Kitchener was appointed to succeed the late Sir Eldon Gorst as British agent. Riaz Pasha, the veteran Egyptian statesman, died at Alexandria on June 17.

[For colonies and dependencies in Africa and Asia, see the United States, the British Empire and the Continental European states, *supra*.]

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